

Pursuant to clause 1(c) of rule XIX, further consideration of H.R. 6 is postponed.

## FARM WORKFORCE MODERNIZATION ACT OF 2021

Mr. NADLER. Madam Speaker, pursuant to House Resolution 233, I call up the bill (H.R. 1603) to amend the Immigration and Nationality Act to provide for terms and conditions for non-immigrant workers performing agricultural labor or services, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 233, the amendment printed in part C of House Report 117-12 is adopted, and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 1603

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Farm Workforce Modernization Act of 2021”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—SECURING THE DOMESTIC AGRICULTURAL WORKFORCE

##### Subtitle A—Temporary Status for Certified Agricultural Workers

Sec. 101. Certified agricultural worker status.  
Sec. 102. Terms and conditions of certified status.  
Sec. 103. Extensions of certified status.  
Sec. 104. Determination of continuous presence.  
Sec. 105. Employer obligations.  
Sec. 106. Administrative and judicial review.

##### Subtitle B—Optional Earned Residence for Long-Term Workers

Sec. 111. Optional adjustment of status for long-term agricultural workers.  
Sec. 112. Payment of taxes.  
Sec. 113. Adjudication and decision; review.

##### Subtitle C—General Provisions

Sec. 121. Definitions.  
Sec. 122. Rulemaking; Fees.  
Sec. 123. Background checks.  
Sec. 124. Protection for children.  
Sec. 125. Limitation on removal.  
Sec. 126. Documentation of agricultural work history.  
Sec. 127. Employer protections.  
Sec. 128. Correction of social security records; conforming amendments.  
Sec. 129. Disclosures and privacy.  
Sec. 130. Penalties for false statements in applications.  
Sec. 131. Dissemination of information.  
Sec. 132. Exemption from numerical limitations.  
Sec. 133. Reports to Congress.  
Sec. 134. Grant program to assist eligible applicants.  
Sec. 135. Authorization of appropriations.

#### TITLE II—ENSURING AN AGRICULTURAL WORKFORCE FOR THE FUTURE

##### Subtitle A—Reforming the H-2A Temporary Worker Program

Sec. 201. Comprehensive and streamlined electronic H-2A platform.  
Sec. 202. H-2A program requirements.  
Sec. 203. Agency roles and responsibilities.  
Sec. 204. Worker protection and compliance.

Sec. 205. Report on wage protections.

Sec. 206. Portable H-2A visa pilot program.

Sec. 207. Improving access to permanent residence.

##### Subtitle B—Preservation and Construction of Farmworker Housing

Sec. 220. Short title.

Sec. 221. Permanent establishment of housing preservation and revitalization program.

Sec. 222. Eligibility for rural housing vouchers.

Sec. 223. Amount of voucher assistance.

Sec. 224. Rental assistance contract authority.

Sec. 225. Funding for multifamily technical improvements.

Sec. 226. Plan for preserving affordability of rental projects.

Sec. 227. Covered housing programs.

Sec. 228. New farmworker housing.

Sec. 229. Loan and grant limitations.

Sec. 230. Operating assistance subsidies.

Sec. 231. Eligibility of certified workers.

##### Subtitle C—Foreign Labor Recruiter Accountability

Sec. 251. Registration of foreign labor recruiters.

Sec. 252. Enforcement.

Sec. 253. Appropriations.

Sec. 254. Definitions.

#### TITLE III—ELECTRONIC VERIFICATION OF EMPLOYMENT ELIGIBILITY

Sec. 301. Electronic employment eligibility verification system.

Sec. 302. Mandatory electronic verification for the agricultural industry.

Sec. 303. Coordination with E-Verify Program.

Sec. 304. Fraud and misuse of documents.

Sec. 305. Technical and conforming amendments.

Sec. 306. Protection of Social Security Administration programs.

Sec. 307. Report on the implementation of the electronic employment verification system.

Sec. 308. Modernizing and streamlining the employment eligibility verification process.

Sec. 309. Rulemaking and Paperwork Reduction Act.

#### TITLE I—SECURING THE DOMESTIC AGRICULTURAL WORKFORCE

##### Subtitle A—Temporary Status for Certified Agricultural Workers

#### SEC. 101. CERTIFIED AGRICULTURAL WORKER STATUS.

(a) **REQUIREMENTS FOR CERTIFIED AGRICULTURAL WORKER STATUS.**—

(1) **PRINCIPAL ALIENS.**—The Secretary may grant certified agricultural worker status to an alien who submits a completed application, including the required processing fees, before the end of the period set forth in subsection (c) and who—

(A) performed agricultural labor or services in the United States for at least 1,035 hours (or 180 work days) during the 2-year period preceding the date of the introduction of this Act;

(B) on the date of the introduction of this Act—

(i) is inadmissible or deportable from the United States; or

(ii) is under a grant of deferred enforced departure or has temporary protected status under section 244 of the Immigration and Nationality Act;

(C) subject to section 104, has been continuously present in the United States since the date of the introduction of this Act and until the date on which the alien is granted certified agricultural worker status; and

(D) is not otherwise ineligible for certified agricultural worker status as provided in subsection (b).

(2) **DEPENDENT SPOUSE AND CHILDREN.**—The Secretary may grant certified agricultural de-

pendent status to the spouse or child of an alien granted certified agricultural worker status under paragraph (1) if the spouse or child is not ineligible for certified agricultural dependent status as provided in subsection (b).

(b) **GROUND FOR INELIGIBILITY.**—

(1) **GROUND OF INADMISSIBILITY.**—Except as provided in paragraph (3), an alien is ineligible for certified agricultural worker or certified agricultural dependent status if the Secretary determines that the alien is inadmissible under section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), except that in determining inadmissibility—

(A) paragraphs (4), (5), (7), and (9)(B) of such section shall not apply;

(B) subparagraphs (A), (C), (D), (F), and (G) of such section 212(a)(6) and paragraphs (9)(C) and (10)(B) of such section 212(a) shall not apply unless based on the act of unlawfully entering the United States after the date of introduction of this Act; and

(C) paragraphs (6)(B) and (9)(A) of such section 212(a) shall not apply unless the relevant conduct began on or after the date of filing of the application for certified agricultural worker status.

(2) **ADDITIONAL CRIMINAL BARS.**—Except as provided in paragraph (3), an alien is ineligible for certified agricultural worker or certified agricultural dependent status if the Secretary determines that, excluding any offense under State law for which an essential element is the alien's immigration status and any minor traffic offense, the alien has been convicted of—

(A) any felony offense;

(B) an aggravated felony (as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) at the time of the conviction);

(C) two misdemeanor offenses involving moral turpitude, as described in section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(A)(i)(I)), unless an offense is waived by the Secretary under paragraph (3)(B); or

(D) three or more misdemeanor offenses not occurring on the same date, and not arising out of the same act, omission, or scheme of misconduct.

(3) **WAIVERS FOR CERTAIN GROUNDS OF INADMISSIBILITY.**—For humanitarian purposes, family unity, or if otherwise in the public interest, the Secretary may waive the grounds of inadmissibility under—

(A) paragraph (1), (6)(E), or (10)(D) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)); or

(B) subparagraphs (A) and (D) of section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)), unless inadmissibility is based on a conviction that would otherwise render the alien ineligible under subparagraph (A), (B), or (D) of paragraph (2).

(c) **APPLICATION.**—

(1) **APPLICATION PERIOD.**—Except as provided in paragraph (2), the Secretary shall accept initial applications for certified agricultural worker status during the 18-month period beginning on the date on which the interim final rule is published in the Federal Register pursuant to section 122(a).

(2) **EXTENSION.**—If the Secretary determines, during the initial period described in paragraph (1), that additional time is required to process initial applications for certified agricultural worker status or for other good cause, the Secretary may extend the period for accepting applications for up to an additional 12 months.

(3) **SUBMISSION OF APPLICATIONS.**—

(A) **IN GENERAL.**—An alien may file an application with the Secretary under this section with the assistance of an attorney or a non-profit religious, charitable, social service, or similar organization recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations. The Secretary

shall also create a procedure for accepting applications filed by qualified designated entities with the consent of the applicant.

(B) **FARM SERVICE AGENCY OFFICES.**—The Secretary, in consultation with the Secretary of Agriculture, shall establish a process for the filing of applications under this section at Farm Service Agency offices throughout the United States.

(4) **EVIDENCE OF APPLICATION FILING.**—As soon as practicable after receiving an application for certified agricultural worker status, the Secretary shall provide the applicant with a document acknowledging the receipt of such application. Such document shall serve as interim proof of the alien's authorization to accept employment in the United States and shall be accepted by an employer as evidence of employment authorization under section 274A(b)(1)(C) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)(1)(C)), if the employer is employing the holder of such document to perform agricultural labor or services, pending a final administrative decision on the application.

(5) **EFFECT OF PENDING APPLICATION.**—During the period beginning on the date on which an alien applies for certified agricultural worker status under this subtitle, and ending on the date on which the Secretary makes a final administrative decision regarding such application, the alien and any dependents included in the application—

(A) may apply for advance parole, which shall be granted upon demonstrating a legitimate need to travel outside the United States for a temporary purpose;

(B) may not be detained by the Secretary or removed from the United States unless the Secretary makes a *prima facie* determination that such alien is, or has become, ineligible for certified agricultural worker status;

(C) may not be considered unlawfully present under section 212(a)(9)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)); and

(D) may not be considered an unauthorized alien (as defined in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3))).

(6) **WITHDRAWAL OF APPLICATION.**—The Secretary shall, upon receipt of a request from the applicant to withdraw an application for certified agricultural worker status under this subtitle, cease processing of the application, and close the case. Withdrawal of the application shall not prejudice any future application filed by the applicant for any immigration benefit under this Act or under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(d) **ADJUDICATION AND DECISION.**—

(1) **IN GENERAL.**—Subject to section 123, the Secretary shall render a decision on an application for certified agricultural worker status not later than 180 days after the date the application is filed.

(2) **NOTICE.**—Prior to denying an application for certified agricultural worker status, the Secretary shall provide the alien with—

(A) written notice that describes the basis for ineligibility or the deficiencies in the evidence submitted; and

(B) at least 90 days to contest ineligibility or submit additional evidence.

(3) **AMENDED APPLICATION.**—An alien whose application for certified agricultural worker status is denied under this section may submit an amended application for such status to the Secretary if the amended application is submitted within the application period described in subsection (c) and contains all the required information and fees that were missing from the initial application.

(e) **ALTERNATIVE H-2A STATUS.**—An alien who has not met the required period of agricultural labor or services under subsection (a)(1)(A), but is otherwise eligible for certified agricultural worker status under such subsection, shall be eligible for classification as a nonimmigrant described in section 101(a)(15)(H)(ii)(a) of the Im-

migration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) upon approval of a petition submitted by a sponsoring employer, if the alien has performed at least 575 hours (or 100 work days) of agricultural labor or services during the 3-year period preceding the date of the introduction of this Act. The Secretary shall create a procedure to provide for such classification without requiring the alien to depart the United States and obtain a visa abroad.

#### **SEC. 102. TERMS AND CONDITIONS OF CERTIFIED STATUS.**

(a) **IN GENERAL.**—

(1) **APPROVAL.**—Upon approval of an application for certified agricultural worker status, or an extension of such status pursuant to section 103, the Secretary shall issue—

(A) documentary evidence of such status to the applicant; and

(B) documentary evidence of certified agricultural dependent status to any qualified dependent included on such application.

(2) **DOCUMENTARY EVIDENCE.**—In addition to any other features and information as the Secretary may prescribe, the documentary evidence described in paragraph (1)—

(A) shall be machine-readable and tamper-resistant;

(B) shall contain a digitized photograph;

(C) shall serve as a valid travel and entry document for purposes of applying for admission to the United States; and

(D) shall be accepted during the period of its validity by an employer as evidence of employment authorization and identity under section 274A(b)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)(1)(B)).

(3) **VALIDITY PERIOD.**—Certified agricultural worker and certified agricultural dependent status shall be valid for 5½ years beginning on the date of approval.

(4) **TRAVEL AUTHORIZATION.**—An alien with certified agricultural worker or certified agricultural dependent status may—

(A) travel within and outside of the United States, including commuting to the United States from a residence in a foreign country; and

(B) be admitted to the United States upon return from travel abroad without first obtaining a visa if the alien is in possession of—

(i) valid, unexpired documentary evidence of certified agricultural worker or certified agricultural dependent status as described in subsection (a); or

(ii) a travel document that has been approved by the Secretary and was issued to the alien after the alien's original documentary evidence was lost, stolen, or destroyed.

(b) **ABILITY TO CHANGE STATUS.**—

(1) **CHANGE TO CERTIFIED AGRICULTURAL WORKER STATUS.**—Notwithstanding section 101(a), an alien with valid certified agricultural dependent status may apply to change to certified agricultural worker status, at any time, if the alien—

(A) submits a completed application, including the required processing fees; and

(B) is not ineligible for certified agricultural worker status under section 101(b).

(2) **CLARIFICATION.**—Nothing in this title prohibits an alien granted certified agricultural worker or certified agricultural dependent status from changing status to any other non-immigrant classification for which the alien may be eligible.

(c) **PROHIBITION ON PUBLIC BENEFITS, TAX BENEFITS, AND HEALTH CARE SUBSIDIES.**—Aliens granted certified agricultural worker or certified agricultural dependent status shall be considered lawfully present in the United States for all purposes for the duration of their status, except that such aliens—

(1) shall be ineligible for Federal means-tested public benefits to the same extent as other individuals who are not qualified aliens under section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641);

(2) are not entitled to the premium assistance tax credit authorized under section 36B of the Internal Revenue Code of 1986 (26 U.S.C. 36B), and shall be subject to the rules applicable to individuals who are not lawfully present set forth in subsection (e) of such section;

(3) shall be subject to the rules applicable to individuals who are not lawfully present set forth in section 1402(e) of the Patient Protection and Affordable Care Act (42 U.S.C. 18071(e)); and

(4) shall be subject to the rules applicable to individuals not lawfully present set forth in section 5000A(d)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 5000A(d)(3)).

(d) **REVOCAION OF STATUS.**—

(1) **IN GENERAL.**—The Secretary may revoke certified agricultural worker or certified agricultural dependent status if, after providing notice to the alien and the opportunity to provide evidence to contest the proposed revocation, the Secretary determines that the alien no longer meets the eligibility requirements for such status under section 101(b).

(2) **INVALIDATION OF DOCUMENTATION.**—Upon the Secretary's final determination to revoke an alien's certified agricultural worker or certified agricultural dependent status, any documentation issued by the Secretary to such alien under subsection (a) shall automatically be rendered invalid for any purpose except for departure from the United States.

#### **SEC. 103. EXTENSIONS OF CERTIFIED STATUS.**

(a) **REQUIREMENTS FOR EXTENSIONS OF STATUS.**—

(1) **PRINCIPAL ALIENS.**—The Secretary may extend certified agricultural worker status for additional periods of 5½ years to an alien who submits a completed application, including the required processing fees, within the 120-day period beginning 60 days before the expiration of the fifth year of the immediately preceding grant of certified agricultural worker status, if the alien—

(A) except as provided in section 126(c), has performed agricultural labor or services in the United States for at least 575 hours (or 100 work days) for each of the prior 5 years in which the alien held certified agricultural worker status; and

(B) has not become ineligible for certified agricultural worker status under section 101(b).

(2) **DEPENDENT SPOUSE AND CHILDREN.**—The Secretary may grant or extend certified agricultural dependent status to the spouse or child of an alien granted an extension of certified agricultural worker status under paragraph (1) if the spouse or child is not ineligible for certified agricultural dependent status under section 101(b).

(3) **WAIVER FOR LATE FILINGS.**—The Secretary may waive an alien's failure to timely file before the expiration of the 120-day period described in paragraph (1) if the alien demonstrates that the delay was due to extraordinary circumstances beyond the alien's control or for other good cause.

(b) **STATUS FOR WORKERS WITH PENDING APPLICATIONS.**—

(1) **IN GENERAL.**—Certified agricultural worker status of an alien who timely files an application to extend such status under subsection (a) (and the status of the alien's dependents) shall be automatically extended through the date on which the Secretary makes a final administrative decision regarding such application.

(2) **DOCUMENTATION OF EMPLOYMENT AUTHORIZATION.**—As soon as practicable after receipt of an application to extend certified agricultural worker status under subsection (a), the Secretary shall issue a document to the alien acknowledging the receipt of such application. An employer of the worker may not refuse to accept such document as evidence of employment authorization under section 274A(b)(1)(C) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)(1)(C)), pending a final administrative decision on the application.

(c) NOTICE.—Prior to denying an application to extend certified agricultural worker status, the Secretary shall provide the alien with—

(1) written notice that describes the basis for ineligibility or the deficiencies of the evidence submitted; and

(2) at least 90 days to contest ineligibility or submit additional evidence.

#### SEC. 104. DETERMINATION OF CONTINUOUS PRESENCE.

(a) EFFECT OF NOTICE TO APPEAR.—The continuous presence in the United States of an applicant for certified agricultural worker status under section 101 shall not terminate when the alien is served a notice to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

(b) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), an alien shall be considered to have failed to maintain continuous presence in the United States under this subtitle if the alien departed the United States for any period exceeding 90 days, or for any periods, in the aggregate, exceeding 180 days.

(2) EXTENSIONS FOR EXTENUATING CIRCUMSTANCES.—The Secretary may extend the time periods described in paragraph (1) for an alien who demonstrates that the failure to timely return to the United States was due to extenuating circumstances beyond the alien's control, including the serious illness of the alien, or death or serious illness of a spouse, parent, son or daughter, grandparent, or sibling of the alien.

(3) TRAVEL AUTHORIZED BY THE SECRETARY.—Any period of travel outside of the United States by an alien that was authorized by the Secretary shall not be counted toward any period of departure from the United States under paragraph (1).

#### SEC. 105. EMPLOYER OBLIGATIONS.

(a) RECORD OF EMPLOYMENT.—An employer of an alien in certified agricultural worker status shall provide such alien with a written record of employment each year during which the alien provides agricultural labor or services to such employer as a certified agricultural worker.

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—If the Secretary determines, after notice and an opportunity for a hearing, that an employer of an alien with certified agricultural worker status has knowingly failed to provide the record of employment required under subsection (a), or has provided a false statement of material fact in such a record, the employer shall be subject to a civil penalty in an amount not to exceed \$500 per violation.

(2) LIMITATION.—The penalty under paragraph (1) for failure to provide employment records shall not apply unless the alien has provided the employer with evidence of employment authorization described in section 102 or 103.

(3) DEPOSIT OF CIVIL PENALTIES.—Civil penalties collected under this paragraph shall be deposited into the Immigration Examinations Fee Account under section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)).

#### SEC. 106. ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) ADMINISTRATIVE REVIEW.—The Secretary shall establish a process by which an applicant may seek administrative review of a denial of an application for certified agricultural worker status under this subtitle, an application to extend such status, or a revocation of such status.

(b) ADMISSIBILITY IN IMMIGRATION COURT.—Each record of an alien's application for certified agricultural worker status under this subtitle, application to extend such status, revocation of such status, and each record created pursuant to the administrative review process under subsection (a) is admissible in immigration court, and shall be included in the administrative record.

(c) JUDICIAL REVIEW.—Notwithstanding any other provision of law, judicial review of the

Secretary's decision to deny an application for certified agricultural worker status, an application to extend such status, or the decision to revoke such status, shall be limited to the review of an order of removal under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

#### Subtitle B—Optional Earned Residence for Long-Term Workers

#### SEC. 111. OPTIONAL ADJUSTMENT OF STATUS FOR LONG-TERM AGRICULTURAL WORKERS.

(a) REQUIREMENTS FOR ADJUSTMENT OF STATUS.—

(1) PRINCIPAL ALIENS.—The Secretary may adjust the status of an alien from that of a certified agricultural worker to that of a lawful permanent resident if the alien submits a completed application, including the required processing and penalty fees, and the Secretary determines that—

(A) except as provided in section 126(c), the alien performed agricultural labor or services for not less than 575 hours (or 100 work days) each year—

(i) for at least 10 years prior to the date of the enactment of this Act and for at least 4 years in certified agricultural worker status; or

(ii) for fewer than 10 years prior to the date of the enactment of this Act and for at least 8 years in certified agricultural worker status; and

(B) the alien has not become ineligible for certified agricultural worker status under section 101(b).

(2) DEPENDENT ALIENS.—

(A) IN GENERAL.—The spouse and each child of an alien described in paragraph (1) whose status has been adjusted to that of a lawful permanent resident may be granted lawful permanent residence under this subtitle if—

(i) the qualifying relationship to the principal alien existed on the date on which such alien was granted adjustment of status under this subtitle; and

(ii) the spouse or child is not ineligible for certified agricultural worker dependent status under section 101(b).

(B) PROTECTIONS FOR SPOUSES AND CHILDREN.—The Secretary of Homeland Security shall establish procedures to allow the spouse or child of a certified agricultural worker to self-petition for lawful permanent residence under this subtitle in cases involving—

(i) the death of the certified agricultural worker, so long as the spouse or child submits a petition not later than 2 years after the date of the worker's death; or

(ii) the spouse or a child being battered or subjected to extreme cruelty by the certified agricultural worker.

(3) DOCUMENTATION OF WORK HISTORY.—An applicant for adjustment of status under this section shall not be required to resubmit evidence of work history that has been previously submitted to the Secretary in connection with an approved extension of certified agricultural worker status.

(b) PENALTY FEE.—In addition to any processing fee that the Secretary may assess in accordance with section 122(b), a principal alien seeking adjustment of status under this subtitle shall pay a \$1,000 penalty fee, which shall be deposited into the Immigration Examinations Fee Account pursuant to section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)).

(c) EFFECT OF PENDING APPLICATION.—During the period beginning on the date on which an alien applies for adjustment of status under this subtitle, and ending on the date on which the Secretary makes a final administrative decision regarding such application, the alien and any dependents included on the application—

(1) may apply for advance parole, which shall be granted upon demonstrating a legitimate need to travel outside the United States for a temporary purpose;

(2) may not be detained by the Secretary or removed from the United States unless the Secretary makes a prima facie determination that such alien is, or has become, ineligible for adjustment of status under subsection (a);

(3) may not be considered unlawfully present under section 212(a)(9)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)); and

(4) may not be considered an unauthorized alien (as defined in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3))).

(d) EVIDENCE OF APPLICATION FILING.—As soon as practicable after receiving an application for adjustment of status under this subtitle, the Secretary shall provide the applicant with a document acknowledging the receipt of such application. Such document shall serve as interim proof of the alien's authorization to accept employment in the United States and shall be accepted by an employer as evidence of employment authorization under section 274A(b)(1)(C) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)(1)(C)), pending a final administrative decision on the application.

(e) WITHDRAWAL OF APPLICATION.—The Secretary shall, upon receipt of a request to withdraw an application for adjustment of status under this subtitle, cease processing of the application, and close the case. Withdrawal of the application shall not prejudice any future application filed by the applicant for any immigration benefit under this Act or under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

#### SEC. 112. PAYMENT OF TAXES.

(a) IN GENERAL.—An alien may not be granted adjustment of status under this subtitle unless the applicant has satisfied any applicable Federal tax liability.

(b) COMPLIANCE.—An alien may demonstrate compliance with subsection (a) by submitting such documentation as the Secretary, in consultation with the Secretary of the Treasury, may require by regulation.

#### SEC. 113. ADJUDICATION AND DECISION; REVIEW.

(a) IN GENERAL.—Subject to the requirements of section 123, the Secretary shall render a decision on an application for adjustment of status under this subtitle not later than 180 days after the date on which the application is filed.

(b) NOTICE.—Prior to denying an application for adjustment of status under this subtitle, the Secretary shall provide the alien with—

(1) written notice that describes the basis for ineligibility or the deficiencies of the evidence submitted; and

(2) at least 90 days to contest ineligibility or submit additional evidence.

(c) ADMINISTRATIVE REVIEW.—The Secretary shall establish a process by which an applicant may seek administrative review of a denial of an application for adjustment of status under this subtitle.

(d) JUDICIAL REVIEW.—Notwithstanding any other provision of law, an alien may seek judicial review of a denial of an application for adjustment of status under this title in an appropriate United States district court.

#### Subtitle C—General Provisions

#### SEC. 121. DEFINITIONS.

In this title:

(1) IN GENERAL.—Except as otherwise provided, any term used in this title that is used in the immigration laws shall have the meaning given such term in the immigration laws (as such term is defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)).

(2) AGRICULTURAL LABOR OR SERVICES.—The term "agricultural labor or services" means—

(A) agricultural labor or services as such term is used in section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)), without regard to whether the labor or services are of a seasonal or temporary nature; and

(B) agricultural employment as such term is defined in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1802), without regard to whether the specific service or activity is temporary or seasonal.

(3) **APPLICABLE FEDERAL TAX LIABILITY.**—The term “applicable Federal tax liability” means all Federal income taxes assessed in accordance with section 6203 of the Internal Revenue Code of 1986 beginning on the date on which the applicant was authorized to work in the United States as a certified agricultural worker.

(4) **APPROPRIATE UNITED STATES DISTRICT COURT.**—The term “appropriate United States district court” means the United States District Court for the District of Columbia or the United States district court with jurisdiction over the alien’s principal place of residence.

(5) **CHILD.**—The term “child” has the meaning given such term in section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)).

(6) **CONVICTED OR CONVICTION.**—The term “convicted” or “conviction” does not include a judgment that has been expunged or set aside, that resulted in a rehabilitative disposition, or the equivalent.

(7) **EMPLOYER.**—The term “employer” means any person or entity, including any labor contractor or any agricultural association, that employs workers in agricultural labor or services.

(8) **QUALIFIED DESIGNATED ENTITY.**—The term “qualified designated entity” means—

(A) a qualified farm labor organization or an association of employers designated by the Secretary; or

(B) any other entity that the Secretary designates as having substantial experience, demonstrated competence, and a history of long-term involvement in the preparation and submission of application for adjustment of status under title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.).

(9) **SECRETARY.**—The term “Secretary” means the Secretary of Homeland Security.

(10) **WORK DAY.**—The term “work day” means any day in which the individual is employed 5.75 or more hours in agricultural labor or services.

#### SEC. 122. RULEMAKING; FEES.

(a) **RULEMAKING.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall publish in the Federal Register, an interim final rule implementing this title. Notwithstanding section 553 of title 5, United States Code, the rule shall be effective, on an interim basis, immediately upon publication, but may be subject to change and revision after public notice and opportunity for comment. The Secretary shall finalize such rule not later than 1 year after the date of the enactment of this Act.

(b) **FEES.**—

(1) **IN GENERAL.**—The Secretary may require an alien applying for any benefit under this title to pay a reasonable fee that is commensurate with the cost of processing the application.

(2) **FEE WAIVER; INSTALLMENTS.**—

(A) **IN GENERAL.**—The Secretary shall establish procedures to allow an alien to—

(i) request a waiver of any fee that the Secretary may assess under this title if the alien demonstrates to the satisfaction of the Secretary that the alien is unable to pay the prescribed fee; or

(ii) pay any fee or penalty that the Secretary may assess under this title in installments.

(B) **CLARIFICATION.**—Nothing in this section shall be read to prohibit an employer from paying any fee or penalty that the Secretary may assess under this title on behalf of an alien and the alien’s spouse or children.

#### SEC. 123. BACKGROUND CHECKS.

(a) **SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.**—The Secretary may not grant or extend certified agricultural worker or certified agricultural dependent status under subtitle A,

or grant adjustment of status to that of a lawful permanent resident under subtitle B, unless the alien submits biometric and biographic data, in accordance with procedures established by the Secretary. The Secretary shall provide an alternative procedure for aliens who cannot provide all required biometric or biographic data because of a physical impairment.

(b) **BACKGROUND CHECKS.**—The Secretary shall use biometric, biographic, and other data that the Secretary determines appropriate to conduct security and law enforcement background checks and to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for status under this title. An alien may not be granted any such status under this title unless security and law enforcement background checks are completed to the satisfaction of the Secretary.

#### SEC. 124. PROTECTION FOR CHILDREN.

(a) **IN GENERAL.**—Except as provided in subsection (b), for purposes of eligibility for certified agricultural dependent status or lawful permanent resident status under this title, a determination of whether an alien is a child shall be made using the age of the alien on the date on which the initial application for certified agricultural worker status is filed with the Secretary of Homeland Security.

(b) **LIMITATION.**—Subsection (a) shall apply for no more than 10 years after the date on which the initial application for certified agricultural worker status is filed with the Secretary of Homeland Security.

#### SEC. 125. LIMITATION ON REMOVAL.

(a) **IN GENERAL.**—An alien who appears to be prima facie eligible for status under this title shall be given a reasonable opportunity to apply for such status. Such an alien may not be placed in removal proceedings or removed from the United States until a final administrative decision establishing ineligibility for such status is rendered.

(b) **ALIENS IN REMOVAL PROCEEDINGS.**—Notwithstanding any other provision of the law, the Attorney General shall (upon motion by the Secretary with the consent of the alien, or motion by the alien) terminate removal proceedings, without prejudice, against an alien who appears to be prima facie eligible for status under this title, and provide such alien a reasonable opportunity to apply for such status.

(c) **EFFECT OF FINAL ORDER.**—An alien present in the United States who has been ordered removed or has been permitted to depart voluntarily from the United States may, notwithstanding such order or permission to depart, apply for status under this title. Such alien shall not be required to file a separate motion to reopen, reconsider, or vacate the order of removal. If the Secretary approves the application, the Secretary shall notify the Attorney General of such approval, and the Attorney General shall cancel the order of removal. If the Secretary renders a final administrative decision to deny the application, the order of removal or permission to depart shall be effective and enforceable to the same extent as if the application had not been made, only after all available administrative and judicial remedies have been exhausted.

(d) **EFFECT OF DEPARTURE.**—Section 101(g) of the Immigration and Nationality Act (8 U.S.C. 1101(g)) shall not apply to an alien who departs the United States—

(1) with advance permission to return to the United States granted by the Secretary under this title; or

(2) after having been granted certified agricultural worker status or lawful permanent resident status under this title.

#### SEC. 126. DOCUMENTATION OF AGRICULTURAL WORK HISTORY.

(a) **BURDEN OF PROOF.**—An alien applying for certified agricultural worker status under subtitle A or adjustment of status under subtitle B has the burden of proving by a preponderance

of the evidence that the alien has worked the requisite number of hours or days required under section 101, 103, or 111, as applicable. The Secretary shall establish special procedures to properly credit work in cases in which an alien was employed under an assumed name.

(b) **EVIDENCE.**—An alien may meet the burden of proof under subsection (a) by producing sufficient evidence to show the extent of such employment as a matter of just and reasonable inference. Such evidence may include—

(1) an annual record of certified agricultural worker employment as described in section 105(a), or other employment records from employers;

(2) employment records maintained by collective bargaining associations;

(3) tax records or other government records;

(4) sworn affidavits from individuals who have direct knowledge of the alien’s work history; or

(5) any other documentation designated by the Secretary for such purpose.

(c) **EXCEPTIONS FOR EXTRAORDINARY CIRCUMSTANCES.**—

(1) **IMPACT OF COVID-19.**—

(A) **IN GENERAL.**—The Secretary may grant certified agricultural worker status to an alien who is otherwise eligible for such status if such alien is able to only partially satisfy the requirement under section 101(a)(1)(A) as a result of reduced hours of employment or other restrictions associated with the public health emergency declared by the Secretary of Health and Human Services under section 319 of the Public Health Service Act (42 U.S.C. 247d) with respect to COVID-19.

(B) **LIMITATION.**—The exception described in subparagraph (A) shall apply only to agricultural labor or services required to be performed during the period that—

(i) begins on the first day of the public health emergency described in subparagraph (A); and

(ii) ends 90 days after the date on which such public health emergency terminates.

(2) **EXTRAORDINARY CIRCUMSTANCES.**—In determining whether an alien has met the requirement under section 103(a)(1)(A) or 111(a)(1)(A), the Secretary may credit the alien with not more than 575 hours (or 100 work days) of agricultural labor or services in the United States if the alien was unable to perform the required agricultural labor or services due to—

(A) pregnancy, parental leave, illness, disease, disabling injury, or physical limitation of the alien;

(B) injury, illness, disease, or other special needs of the alien’s child or spouse;

(C) severe weather conditions that prevented the alien from engaging in agricultural labor or services;

(D) reduced hours of employment or other restrictions associated with the public health emergency declared by the Secretary of Health and Human Services under section 319 of the Public Health Service Act (42 U.S.C. 247d) with respect to COVID-19; or

(E) termination from agricultural employment, if the Secretary determines that—

(i) the termination was without just cause; and

(ii) the alien was unable to find alternative agricultural employment after a reasonable job search.

(3) **EFFECT OF DETERMINATION.**—A determination under paragraph (1)(E) shall not be conclusive, binding, or admissible in a separate or subsequent judicial or administrative action or proceeding between the alien and a current or prior employer of the alien or any other party.

(4) **HARDSHIP WAIVER.**—

(A) **IN GENERAL.**—As part of the rulemaking described in section 122(a), the Secretary shall establish procedures allowing for a partial waiver of the requirement under section 111(a)(1)(A) for a certified agricultural worker if such worker—

(i) has continuously maintained certified agricultural worker status since the date such status was initially granted;

(ii) has partially completed the requirement under section 111(a)(1)(A); and

(iii) is no longer able to engage in agricultural labor or services safely and effectively because of—

(I) a permanent disability suffered while engaging in agricultural labor or services; or

(II) deteriorating health or physical ability combined with advanced age.

(B) **DISABILITY.**—In establishing the procedures described in subparagraph (A), the Secretary shall consult with the Secretary of Health and Human Services and the Commissioner of Social Security to define “permanent disability” for purposes of a waiver under subparagraph (A)(iii)(I).

#### SEC. 127. EMPLOYER PROTECTIONS.

(a) **CONTINUING EMPLOYMENT.**—An employer that continues to employ an alien knowing that the alien intends to apply for certified agricultural worker status under subtitle A shall not violate section 274A(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)(2)) by continuing to employ the alien for the duration of the application period under section 101(c), and with respect to an alien who applies for certified agricultural status, for the duration of the period during which the alien’s application is pending final determination.

(b) **USE OF EMPLOYMENT RECORDS.**—Copies of employment records or other evidence of employment provided by an alien or by an alien’s employer in support of an alien’s application for certified agricultural worker status or adjustment of status under this title may not be used in a civil or criminal prosecution or investigation of that employer under section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) or the Internal Revenue Code of 1986 for the prior unlawful employment of that alien regardless of the outcome of such application.

(c) **ADDITIONAL PROTECTIONS.**—Employers that provide unauthorized aliens with copies of employment records or other evidence of employment in support of an application for certified agricultural worker status or adjustment of status under this title shall not be subject to civil and criminal liability pursuant to such section 274A for employing such unauthorized aliens. Records or other evidence of employment provided by employers in response to a request for such records for the purpose of establishing eligibility for status under this title may not be used for any purpose other than establishing such eligibility.

(d) **LIMITATION ON PROTECTION.**—The protections for employers under this section shall not apply if the employer provides employment records to the alien that are determined to be fraudulent.

#### SEC. 128. CORRECTION OF SOCIAL SECURITY RECORDS; CONFORMING AMENDMENTS.

(a) **IN GENERAL.**—Section 208(e)(1) of the Social Security Act (42 U.S.C. 408(e)(1)) is amended—

(1) in subparagraph (B)(ii), by striking “or” at the end;

(2) in subparagraph (C), by inserting “or” at the end;

(3) by inserting after subparagraph (C) the following:

“(D) who is granted certified agricultural worker status, certified agricultural dependent status, or lawful permanent resident status under title I of the Farm Work Modernization Act of 2021.”; and

(4) in the undesignated matter following subparagraph (D), as added by paragraph (3), by striking “1990.” and inserting “1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted status under title I of the Farm Work Modernization Act of 2021.”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on the first

day of the seventh month that begins after the date of the enactment of this Act.

#### (c) CONFORMING AMENDMENTS.—

(1) **SOCIAL SECURITY ACT.**—Section 210(a)(1) of the Social Security Act (42 U.S.C. 410(a)(1)) is amended by inserting before the semicolon the following: “(other than aliens granted certified agricultural worker status or certified agricultural dependent status under title I of the Farm Work Modernization Act of 2021)”.

(2) **INTERNAL REVENUE CODE OF 1986.**—Section 3121(b)(1) of the Internal Revenue Code of 1986 is amended by inserting before the semicolon the following: “(other than aliens granted certified agricultural worker status or certified agricultural dependent status under title I of the Farm Work Modernization Act of 2021)”.

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply with respect to service performed after the date of the enactment of this Act.

(d) **AUTOMATED SYSTEM TO ASSIGN SOCIAL SECURITY ACCOUNT NUMBERS.**—Section 205(c)(2)(B) of the Social Security Act (42 U.S.C. 405(c)(2)(B)) is amended by adding at the end the following:

“(iv) The Commissioner of Social Security shall, to the extent practicable, coordinate with the Secretary of the Department of Homeland Security to implement an automated system for the Commissioner to assign social security account numbers to aliens granted certified agricultural worker status or certified agricultural dependent status under title I of the Farm Work Modernization Act of 2021. An alien who is granted such status, and who was not previously assigned a social security account number, shall request assignment of a social security account number and a social security card from the Commissioner through such system. The Secretary shall collect and provide to the Commissioner such information as the Commissioner deems necessary for the Commissioner to assign a social security account number, which information may be used by the Commissioner for any purpose for which the Commissioner is otherwise authorized under Federal law. The Commissioner may maintain, use, and disclose such information only as permitted by the Privacy Act and other Federal law.”.

#### SEC. 129. DISCLOSURES AND PRIVACY.

(a) **IN GENERAL.**—The Secretary may not disclose or use information provided in an application for certified agricultural worker status or adjustment of status under this title (including information provided during administrative or judicial review) for the purpose of immigration enforcement.

(b) **REFERRALS PROHIBITED.**—The Secretary, based solely on information provided in an application for certified agricultural worker status or adjustment of status under this title (including information provided during administrative or judicial review), may not refer an applicant to U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection, or any designee of either such entity.

(c) **EXCEPTIONS.**—Notwithstanding subsections (a) and (b), information provided in an application for certified agricultural worker status or adjustment of status under this title may be shared with Federal security and law enforcement agencies—

(1) for assistance in the consideration of an application under this title;

(2) to identify or prevent fraudulent claims or schemes;

(3) for national security purposes; or

(4) for the investigation or prosecution of any felony not related to immigration status.

(d) **PENALTY.**—Any person who knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than \$10,000.

(e) **PRIVACY.**—The Secretary shall ensure that appropriate administrative and physical safeguards are in place to protect the security, con-

fidentiality, and integrity of personally identifiable information collected, maintained, and disseminated pursuant to this title.

#### SEC. 130. PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.

(a) **CRIMINAL PENALTY.**—Any person who—

(1) files an application for certified agricultural worker status or adjustment of status under this title and knowingly falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

(2) creates or supplies a false writing or document for use in making such an application, shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

(b) **INADMISSIBILITY.**—An alien who is convicted under subsection (a) shall be deemed inadmissible to the United States under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

(c) **DEPOSIT.**—Fines collected under subsection (a) shall be deposited into the Immigration Examinations Fee Account pursuant to section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)).

#### SEC. 131. DISSEMINATION OF INFORMATION.

(a) **IN GENERAL.**—Beginning not later than the first day of the application period described in section 101(c)—

(1) the Secretary of Homeland Security, in cooperation with qualified designated entities, shall broadly disseminate information described in subsection (b); and

(2) the Secretary of Agriculture, in consultation with the Secretary of Homeland Security, shall disseminate to agricultural employers a document containing the information described in subsection (b) for posting at employer work-sites.

(b) **INFORMATION DESCRIBED.**—The information described in this subsection shall include—

(1) the benefits that aliens may receive under this title; and

(2) the requirements that an alien must meet to receive such benefits.

#### SEC. 132. EXEMPTION FROM NUMERICAL LIMITATIONS.

The numerical limitations under title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) shall not apply to the adjustment of aliens to lawful permanent resident status under this title, and such aliens shall not be counted toward any such numerical limitation.

#### SEC. 133. REPORTS TO CONGRESS.

Not later than 180 days after the publication of the final rule under section 122(a), and annually thereafter for the following 10 years, the Secretary shall submit a report to Congress that identifies, for the previous fiscal year—

(1) the number of principal aliens who applied for certified agricultural worker status under subtitle A, and the number of dependent spouses and children included in such applications;

(2) the number of principal aliens who were granted certified agricultural worker status under subtitle A, and the number of dependent spouses and children who were granted certified agricultural dependent status;

(3) the number of principal aliens who applied for an extension of their certified agricultural worker status under subtitle A, and the number of dependent spouses and children included in such applications;

(4) the number of principal aliens who were granted an extension of certified agricultural worker status under subtitle A, and the number of dependent spouses and children who were granted certified agricultural dependent status under such an extension;

(5) the number of principal aliens who applied for adjustment of status under subtitle B, and the number of dependent spouses and children included in such applications;

(6) the number of principal aliens who were granted lawful permanent resident status under subtitle B, and the number of spouses and children who were granted such status as dependents;

(7) the number of principal aliens included in petitions described in section 101(e), and the number of dependent spouses and children included in such applications; and

(8) the number of principal aliens who were granted H-2A status pursuant to petitions described in section 101(e), and the number of dependent spouses and children who were granted H-4 status.

**SEC. 134. GRANT PROGRAM TO ASSIST ELIGIBLE APPLICANTS.**

(a) **ESTABLISHMENT.**—The Secretary shall establish a program to award grants, on a competitive basis, to eligible nonprofit organizations to assist eligible applicants under this title by providing them with the services described in subsection (c).

(b) **ELIGIBLE NONPROFIT ORGANIZATION.**—For purposes of this section, the term “eligible nonprofit organization” means an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 (excluding a recipient of funds under title X of the Economic Opportunity Act of 1964 (42 U.S.C. 2996 et seq.)) that has demonstrated qualifications, experience, and expertise in providing quality services to farm workers or aliens.

(c) **USE OF FUNDS.**—Grant funds awarded under this section may be used for the design and implementation of programs that provide—

(1) information to the public regarding the eligibility and benefits of certified agricultural worker status authorized under this title; and

(2) assistance, within the scope of authorized practice of immigration law, to individuals submitting applications for certified agricultural worker status or adjustment of status under this title, including—

(A) screening prospective applicants to assess their eligibility for such status;

(B) completing applications, including providing assistance in obtaining necessary documents and supporting evidence; and

(C) providing any other assistance that the Secretary determines useful to assist aliens in applying for certified agricultural worker status or adjustment of status under this title.

(d) **SOURCE OF FUNDS.**—In addition to any funds appropriated to carry out this section, the Secretary may use up to \$10,000,000 from the Immigration Examinations Fee Account under section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) to carry out this section.

(e) **ELIGIBILITY FOR SERVICES.**—Section 504(a)(11) of Public Law 104–134 (110 Stat. 1321–53 et seq.) shall not be construed to prevent a recipient of funds under title X of the Economic Opportunity Act of 1964 (42 U.S.C. 2996 et seq.) from providing legal assistance directly related to an application for status under this title or to an alien granted such status.

**SEC. 135. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to the Secretary, such sums as may be necessary to implement this title, including any amounts needed for costs associated with the initiation of such implementation, for each of fiscal years 2022 through 2024.

**TITLE II—ENSURING AN AGRICULTURAL WORKFORCE FOR THE FUTURE**

**Subtitle A—Reforming the H-2A Temporary Worker Program**

**SEC. 201. COMPREHENSIVE AND STREAMLINED ELECTRONIC H-2A PLATFORM.**

(a) **STREAMLINED H-2A PLATFORM.**—

(1) **IN GENERAL.**—Not later than 12 months after the date of the enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Labor, the Secretary of Agriculture, the Secretary of State, and United States Digital Service, shall ensure the establishment of an electronic platform through

which a petition for an H-2A worker may be filed. Such platform shall—

(A) serve as a single point of access for an employer to input all information and supporting documentation required for obtaining labor certification from the Secretary of Labor and the adjudication of the H-2A petition by the Secretary of Homeland Security;

(B) serve as a single point of access for the Secretary of Homeland Security, the Secretary of Labor, and State workforce agencies to concurrently perform their respective review and adjudicatory responsibilities in the H-2A process;

(C) facilitate communication between employers and agency adjudicators, including by allowing employers to—

(i) receive and respond to notices of deficiency and requests for information;

(ii) submit requests for inspections and licensing;

(iii) receive notices of approval and denial; and

(iv) request reconsideration or appeal of agency decisions; and

(D) provide information to the Secretary of State and U.S. Customs and Border Protection necessary for the efficient and secure processing of H-2A visas and applications for admission.

(2) **OBJECTIVES.**—In developing the platform described in paragraph (1), the Secretary of Homeland Security, in consultation with the Secretary of Labor, the Secretary of Agriculture, the Secretary of State, and United States Digital Service, shall streamline and improve the H-2A process, including by—

(A) eliminating the need for employers to submit duplicate information and documentation to multiple agencies;

(B) eliminating redundant processes, where a single matter in a petition is adjudicated by more than one agency;

(C) reducing the occurrence of common petition errors, and otherwise improving and expediting the processing of H-2A petitions; and

(D) ensuring compliance with H-2A program requirements and the protection of the wages and working conditions of workers.

(b) **ONLINE JOB REGISTRY.**—The Secretary of Labor shall maintain a national, publicly-accessible online job registry and database of all job orders submitted by H-2A employers. The registry and database shall—

(1) be searchable using relevant criteria, including the types of jobs needed to be filled, the date(s) and location(s) of need, and the employer(s) named in the job order;

(2) provide an interface for workers in English, Spanish, and any other language that the Secretary of Labor determines to be appropriate; and

(3) provide for public access of job orders approved under section 218(h)(2) of the Immigration and Nationality Act.

**SEC. 202. H-2A PROGRAM REQUIREMENTS.**

Section 218 of the Immigration and Nationality Act (8 U.S.C. 1188) is amended to read as follows:

**“SEC. 218. ADMISSION OF TEMPORARY H-2A WORKERS.**

“(a) **LABOR CERTIFICATION CONDITIONS.**—The Secretary of Homeland Security may not approve a petition to admit an H-2A worker unless the Secretary of Labor has certified that—

“(1) there are not sufficient United States workers who are able, willing and qualified, and who will be available at the time and place needed, to perform the agricultural labor or services described in the petition; and

“(2) the employment of the H-2A worker in such labor or services will not adversely affect the wages and working conditions of workers in the United States who are similarly employed.

“(b) **H-2A PETITION REQUIREMENTS.**—An employer filing a petition for an H-2A worker to perform agricultural labor or services shall attest to and demonstrate compliance, as and

when appropriate, with all applicable requirements under this section, including the following:

“(1) **NEED FOR LABOR OR SERVICES.**—The employer has described the need for agricultural labor or services in a job order that includes a description of the nature and location of the work to be performed, the material terms and conditions of employment, the anticipated period or periods (expected start and end dates) for which the workers will be needed, and the number of job opportunities in which the employer seeks to employ the workers.

“(2) **NONDISPLACEMENT OF UNITED STATES WORKERS.**—The employer has not and will not displace United States workers employed by the employer during the period of employment of the H-2A worker and during the 60-day period immediately preceding such period of employment in the job for which the employer seeks approval to employ the H-2A worker.

“(3) **STRIKE OR LOCKOUT.**—Each place of employment described in the petition is not, at the time of filing the petition and until the petition is approved, subject to a strike or lockout in the course of a labor dispute.

“(4) **RECRUITMENT OF UNITED STATES WORKERS.**—The employer shall engage in the recruitment of United States workers as described in subsection (c) and shall hire such workers who are able, willing and qualified, and who will be available at the time and place needed, to perform the agricultural labor or services described in the petition. The employer may reject a United States worker only for lawful, job-related reasons.

“(5) **WAGES, BENEFITS, AND WORKING CONDITIONS.**—The employer shall offer and provide, at a minimum, the wages, benefits, and working conditions required by this section to the H-2A worker and all workers who are similarly employed. The employer—

“(A) shall offer such similarly employed workers not less than the same benefits, wages, and working conditions that the employer is offering or will provide to the H-2A worker; and

“(B) may not impose on such similarly employed workers any restrictions or obligations that will not be imposed on the H-2A worker.

“(6) **WORKERS’ COMPENSATION.**—If the job opportunity is not covered by or is exempt from the State workers’ compensation law, the employer shall provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker’s employment which will provide benefits at least equal to those provided under the State workers’ compensation law.

“(7) **COMPLIANCE WITH LABOR AND EMPLOYMENT LAWS.**—The employer shall comply with all applicable Federal, State and local employment-related laws and regulations.

“(8) **COMPLIANCE WITH WORKER PROTECTIONS.**—The employer shall comply with section 204 of the Farm Workforce Modernization Act of 2021.

“(9) **COMPLIANCE WITH FOREIGN LABOR RECRUITMENT LAWS.**—The employer shall comply with subtitle C of title II of the Farm Workforce Modernization Act of 2021.

“(c) **RECRUITING REQUIREMENTS.**—

“(1) **IN GENERAL.**—The employer may satisfy the recruitment requirement described in subsection (b)(4) by satisfying all of the following:

“(A) **JOB ORDER.**—As provided in subsection (h)(1), the employer shall complete a job order for posting on the electronic job registry maintained by the Secretary of Labor and for distribution by the appropriate State workforce agency. Such posting shall remain on the job registry as an active job order through the period described in paragraph (2)(B).

“(B) **FORMER WORKERS.**—At least 45 days before each start date identified in the petition, the employer shall—

“(i) make reasonable efforts to contact any United States worker the employer employed in the previous year in the same occupation and



area of intended employment for which an H-2A worker is sought (excluding workers who were terminated for cause or abandoned the work-site); and

“(ii) post such job opportunity in a conspicuous location or locations at the place of employment.

“(C) POSITIVE RECRUITMENT.—During the period of recruitment, the employer shall complete any other positive recruitment steps within a multi-State region of traditional or expected labor supply where the Secretary of Labor finds that there are a significant number of qualified United States workers who, if recruited, would be willing to make themselves available for work at the time and place needed.

“(2) PERIOD OF RECRUITMENT.—

“(A) IN GENERAL.—For purposes of this subsection, the period of recruitment begins on the date on which the job order is posted on the online job registry and ends on the date that H-2A workers depart for the employer’s place of employment. For a petition involving more than one start date under subsection (h)(1)(C), the end of the period of recruitment shall be determined by the date of departure of the H-2A workers for the final start date identified in the petition.

“(B) REQUIREMENT TO HIRE US WORKERS.—

“(i) IN GENERAL.—Notwithstanding the limitations of subparagraph (A), the employer will provide employment to any qualified United States worker who applies to the employer for any job opportunity included in the petition until the later of—

“(I) the date that is 30 days after the date on which work begins; or

“(II) the date on which—

“(aa) 33 percent of the work contract for the job opportunity has elapsed; or

“(bb) if the employer is a labor contractor, 50 percent of the work contract for the job opportunity has elapsed.

“(ii) STAGGERED ENTRY.—For a petition involving more than one start date under subsection (h)(1)(C), each start date designated in the petition shall establish a separate job opportunity. An employer may not reject a United States worker because the worker is unable or unwilling to fill more than one job opportunity included in the petition.

“(iii) EXCEPTION.—Notwithstanding clause (i), the employer may offer a job opportunity to an H-2A worker instead of an alien granted certified agricultural worker status under title I of the Farm Workforce Modernization Act of 2021 if the H-2A worker was employed by the employer in each of 3 years during the most recent 4-year period.

“(3) RECRUITMENT REPORT.—

“(A) IN GENERAL.—The employer shall maintain a recruitment report through the applicable period described in paragraph (2)(B) and submit regular updates through the electronic platform on the results of recruitment. The employer shall retain the recruitment report, and all associated recruitment documentation, for a period of 3 years from the date of certification.

“(B) BURDEN OF PROOF.—If the employer asserts that any eligible individual who has applied or been referred is not able, willing or qualified, the employer bears the burden of proof to establish that the individual is not able, willing or qualified because of a lawful, employment-related reason.

“(d) WAGE REQUIREMENTS.—

“(1) IN GENERAL.—Each employer under this section will offer the worker, during the period of authorized employment, wages that are at least the greatest of—

“(A) the agreed-upon collective bargaining wage;

“(B) the adverse effect wage rate (or any successor wage established under paragraph (7));

“(C) the prevailing wage (hourly wage or piece rate); or

“(D) the Federal or State minimum wage.

“(2) ADVERSE EFFECT WAGE RATE DETERMINATIONS.—

“(A) IN GENERAL.—Except as provided under subparagraph (B), the applicable adverse effect wage rate for each State and occupational classification for a calendar year shall be as follows:

“(i) The annual average hourly wage for the occupational classification in the State or region as reported by the Secretary of Agriculture based on a wage survey conducted by such Secretary.

“(ii) If a wage described in clause (i) is not reported, the national annual average hourly wage for the occupational classification as reported by the Secretary of Agriculture based on a wage survey conducted by such Secretary.

“(iii) If a wage described in clause (i) or (ii) is not reported, the Statewide annual average hourly wage for the standard occupational classification as reported by the Secretary of Labor based on a wage survey conducted by such Secretary.

“(iv) If a wage described in clause (i), (ii), or (iii) is not reported, the national average hourly wage for the occupational classification as reported by the Secretary of Labor based on a wage survey conducted by such Secretary.

“(B) LIMITATIONS ON WAGE FLUCTUATIONS.—

“(i) WAGE FREEZE FOR CALENDAR YEAR 2022.—For calendar year 2022, the adverse effect wage rate for each State and occupational classification under this subsection shall be the adverse effect wage rate that was in effect for H-2A workers in the applicable State on the date of the introduction of the Farm Workforce Modernization Act of 2021.

“(ii) CALENDAR YEARS 2023 THROUGH 2031.—For each of calendar years 2023 through 2031, the adverse effect wage rate for each State and occupational classification under this subsection shall be the wage calculated under subparagraph (A), except that such wage may not—

“(I) be more than 1.5 percent lower than the wage in effect for H-2A workers in the applicable State and occupational classification in the immediately preceding calendar year;

“(II) except as provided in clause (III), be more than 3.25 percent higher than the wage in effect for H-2A workers in the applicable State and occupational classification in the immediately preceding calendar year; and

“(III) if the application of clause (II) results in a wage that is lower than 110 percent of the applicable Federal or State minimum wage, be more than 4.25 percent higher than the wage in effect for H-2A workers in the applicable State and occupational classification in the immediately preceding calendar year.

“(iii) CALENDAR YEARS AFTER 2031.—For any calendar year after 2031, the applicable wage rate described in paragraph (1)(B) shall be the wage rate established pursuant to paragraph (7)(D). Until such wage rate is effective, the adverse effect wage rate for each State and occupational classification under this subsection shall be the wage calculated under subparagraph (A), except that such wage may not be more than 1.5 percent lower or 3.25 percent higher than the wage in effect for H-2A workers in the applicable State and occupational classification in the immediately preceding calendar year.

“(3) MULTIPLE OCCUPATIONS.—If the primary job duties for the job opportunity described in the petition do not fall within a single occupational classification, the applicable wage rates under subparagraphs (B) and (C) of paragraph (1) for the job opportunity shall be based on the highest such wage rates for all applicable occupational classifications.

“(4) PUBLICATION; WAGES IN EFFECT.—

“(A) PUBLICATION.—Prior to the start of each calendar year, the Secretary of Labor shall publish the applicable adverse effect wage rate (or successor wage rate, if any), and prevailing wage if available, for each State and occupational classification through notice in the Federal Register.

“(B) JOB ORDERS IN EFFECT.—Except as provided in subparagraph (C), publication by the

Secretary of Labor of an updated adverse effect wage rate or prevailing wage for a State and occupational classification shall not affect the wage rate guaranteed in any approved job order for which recruitment efforts have commenced at the time of publication.

“(C) EXCEPTION FOR YEAR-ROUND JOBS.—If the Secretary of Labor publishes an updated adverse effect wage rate or prevailing wage for a State and occupational classification concerning a petition described in subsection (i), and the updated wage is higher than the wage rate guaranteed in the work contract, the employer shall pay the updated wage not later than 14 days after publication of the updated wage in the Federal Register.

“(5) WORKERS PAID ON A PIECE RATE OR OTHER INCENTIVE BASIS.—If an employer pays by the piece rate or other incentive method and requires one or more minimum productivity standards as a condition of job retention, such standards shall be specified in the job order and shall be no more than those normally required (at the time of the first petition for H-2A workers) by other employers for the activity in the area of intended employment, unless the Secretary of Labor approves a higher minimum standard resulting from material changes in production methods.

“(6) GUARANTEE OF EMPLOYMENT.—

“(A) OFFER TO WORKER.—The employer shall guarantee the worker employment for the hourly equivalent of at least three-fourths of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker’s Sabbath and Federal holidays. If the employer affords the worker less employment than that required under this paragraph, the employer shall pay the worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

“(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker’s Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

“(C) ABANDONMENT OF EMPLOYMENT; TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment without good cause before the end of the contract period, or is terminated for cause, the worker is not entitled to the guarantee of employment described in subparagraph (A).

“(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster before the guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker’s employment. In the event of such termination, the employer shall fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. The employer shall make efforts to transfer a worker to other comparable employment acceptable to the worker. If such transfer is not affected, the employer shall provide the return transportation required in subsection (f)(2).

“(7) WAGE STANDARDS AFTER 2031.—

“(A) STUDY OF ADVERSE EFFECT WAGE RATE.—Beginning in fiscal year 2028, the Secretary of Agriculture and Secretary of Labor shall jointly conduct a study that addresses—

“(i) whether the employment of H-2A workers has depressed the wages of United States farm workers;

“(ii) whether an adverse effect wage rate is necessary to protect the wages of United States farm workers in occupations in which H-2A workers are employed;

“(iii) whether alternative wage standards would be sufficient to prevent wages in occupations in which H-2A workers are employed from falling below the wage level that would have prevailed in the absence of H-2A employment;

“(iv) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage rate; and

“(v) recommendations for future wage protection under this section.

“(B) FINAL REPORT.—Not later than October 1, 2029, the Secretary of Agriculture and Secretary of Labor shall jointly prepare and submit a report to the Congress setting forth the findings of the study conducted under subparagraph (A) and recommendations for future wage protections under this section.

“(C) CONSULTATION.—In conducting the study under subparagraph (A) and preparing the report under subparagraph (B), the Secretary of Agriculture and Secretary of Labor shall consult with representatives of agricultural employers and an equal number of representatives of agricultural workers, at the national, State and local level.

“(D) WAGE DETERMINATION AFTER 2031.—Upon publication of the report described in subparagraph (B), the Secretary of Labor, in consultation with and the approval of the Secretary of Agriculture, shall make a rule to establish a process for annually determining the wage rate for purposes of paragraph (1)(B) for fiscal years after 2031. Such process shall be designed to ensure that the employment of H-2A workers does not undermine the wages and working conditions of similarly employed United States workers.

“(e) HOUSING REQUIREMENTS.—Employers shall furnish housing in accordance with regulations established by the Secretary of Labor. Such regulations shall be consistent with the following:

“(1) IN GENERAL.—The employer shall be permitted at the employer's option to provide housing meeting applicable Federal standards for temporary labor camps or to secure housing which meets the local standards for rental and/or public accommodations or other substantially similar class of habitation: Provided, That in the absence of applicable local standards, State standards for rental and/or public accommodations or other substantially similar class of habitation shall be met: Provided further, That in the absence of applicable local or State standards, Federal temporary labor camp standards shall apply.

“(2) FAMILY HOUSING.—Except as otherwise provided in subsection (i)(5), the employer shall provide family housing to workers with families who request it when it is the prevailing practice in the area and occupation of intended employment to provide family housing.

“(3) UNITED STATES WORKERS.—Notwithstanding paragraphs (1) and (2), an employer is not required to provide housing to United States workers who are reasonably able to return to their residence within the same day.

“(4) TIMING OF INSPECTION.—

“(A) IN GENERAL.—The Secretary of Labor or designee shall make a determination as to whether the housing furnished by an employer for a worker meets the requirements imposed by this subsection prior to the date on which the Secretary of Labor is required to make a certification with respect to a petition for the admission of such worker.

“(B) TIMELY INSPECTION.—The Secretary of Labor shall provide a process for—

“(i) an employer to request inspection of housing up to 60 days before the date on which the

employer will file a petition under this section; and

“(ii) annual inspection of housing for workers who are engaged in agricultural employment that is not of a seasonal or temporary nature.

“(f) TRANSPORTATION REQUIREMENTS.—

“(1) TRAVEL TO PLACE OF EMPLOYMENT.—A worker who completes 50 percent of the period of employment specified in the job order shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker came to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment.

“(2) TRAVEL FROM PLACE OF EMPLOYMENT.—For a worker who completes the period of employment specified in the job order who is terminated without cause, the employer shall provide or pay for the worker's transportation and subsistence from the place of employment to the place from which the worker, disregarding intervening employment, came to work for the employer, or to the place of next employment, if the worker has contracted with a subsequent employer who has not agreed to provide or pay for the worker's transportation and subsistence to such subsequent employer's place of employment.

“(3) LIMITATION.—

“(A) AMOUNT OF REIMBURSEMENT.—Except as provided in subparagraph (B), the amount of reimbursement provided under paragraph (1) or (2) to a worker need not exceed the lesser of—

“(i) the actual cost to the worker of the transportation and subsistence involved; or

“(ii) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

“(B) DISTANCE TRAVELED.—For travel to or from the worker's home country, if the travel distance between the worker's home and the relevant consulate is 50 miles or less, reimbursement for transportation and subsistence may be based on transportation to or from the consulate.

“(g) HEAT ILLNESS PREVENTION PLAN.—

“(1) IN GENERAL.—The employer shall maintain a reasonable plan that describes the employer's procedures for the prevention of heat illness, including appropriate training, access to water and shade, the provision of breaks, and the protocols for emergency response. Such plan shall—

“(A) be in writing in English and, to the extent necessary, any language common to a significant portion of the workers if they are not fluent in English; and

“(B) be posted at a conspicuous location at the worksite and provided to employees prior to the commencement of labor or services.

“(2) CLARIFICATION.—Nothing in this subsection is intended to limit any other Federal or State authority to promulgate, enforce, or maintain health and safety standards related to heat-related illness.

“(h) H-2A PETITION PROCEDURES.—

“(1) SUBMISSION OF PETITION AND JOB ORDER.—

“(A) IN GENERAL.—The employer shall submit information required for the adjudication of the H-2A petition, including a job order, through the electronic platform no more than 75 calendar days and no fewer than 60 calendar days before the employer's first date of need specified in the petition.

“(B) FILING BY AGRICULTURAL ASSOCIATIONS.—An association of agricultural producers that use agricultural services may file an H-2A petition under subparagraph (A). If an association is a joint or sole employer of workers who perform agricultural labor or services, H-2A workers may be used for the approved job opportunities of any of the association's producer members and such workers may be transferred among its producer members to perform the agricultural labor or services for which the petition was approved.

“(C) PETITIONS INVOLVING STAGGERED ENTRY.—

“(i) IN GENERAL.—Except as provided in clause (ii), an employer may file a petition involving employment in the same occupational classification and same area of intended employment with multiple start dates if—

“(I) the petition involves temporary or seasonal employment and no more than 10 start dates;

“(II) the multiple start dates share a common end date;

“(III) no more than 120 days separate the first start date and the final start date listed in the petition; and

“(IV) the need for multiple start dates arises from variations in labor needs associated with the job opportunity identified in the petition.

“(ii) LABOR CONTRACTORS.—A labor contractor may not file a petition described in clause (i) unless the labor contractor—

“(I) is filing as a joint employer with its contractees, or is operating in a State in which joint employment and liability between the labor contractor and its contractees is otherwise established; or

“(II) has posted and is maintaining a premium surety bond as described in subsection (l)(1).

“(2) LABOR CERTIFICATION.—

“(A) REVIEW OF JOB ORDER.—

“(i) IN GENERAL.—The Secretary of Labor, in consultation with the relevant State workforce agency, shall review the job order for compliance with this section and notify the employer through the electronic platform of any deficiencies not later than 7 business days from the date the employer submits the necessary information required under paragraph (1)(A). The employer shall be provided 5 business days to respond to any such notice of deficiency.

“(ii) STANDARD.—The job order must include all material terms and conditions of employment, including the requirements of this section, and must be otherwise consistent with the minimum standards provided under Federal, State or local law. In considering the question of whether a specific qualification is appropriate in a job order, the Secretary of Labor shall apply the normal and accepted qualification required by non-H-2A employers in the same or comparable occupations and crops.

“(iii) EMERGENCY PROCEDURES.—The Secretary of Labor shall establish emergency procedures for the curing of deficiencies that cannot be resolved during the period described in clause (i).

“(B) APPROVAL OF JOB ORDER.—

“(i) IN GENERAL.—Upon approval of the job order, the Secretary of Labor shall immediately place for public examination a copy of the job order on the online job registry, and the State workforce agency serving the area of intended employment shall commence the recruitment of United States workers.

“(ii) REFERRAL OF UNITED STATES WORKERS.—The Secretary of Labor and State workforce agency shall keep the job order active until the end of the period described in subsection (c)(2) and shall refer to the employer each United States worker who applies for the job opportunity.

“(C) REVIEW OF INFORMATION FOR DEFICIENCIES.—Within 7 business days of the approval of the job order, the Secretary of Labor shall review the information necessary to make a labor certification and notify the employer through the electronic platform if such information does not meet the standards for approval. Such notification shall include a description of any deficiency, and the employer shall be provided 5 business days to cure such deficiency.

“(D) CERTIFICATION AND AUTHORIZATION OF WORKERS.—Not later than 30 days before the date that labor or services are first required to be performed, the Secretary of Labor shall issue the requested labor certification if the Secretary determines that the requirements set forth in this section have been met.



“(E) EXPEDITED ADMINISTRATIVE APPEALS OF CERTAIN DETERMINATIONS.—The Secretary of Labor shall by regulation establish a procedure for an employer to request the expedited review of a denial of a labor certification under this section, or the revocation of such a certification. Such procedure shall require the Secretary to expeditiously, but no later than 72 hours after expedited review is requested, issue a *de novo* determination on a labor certification that was denied in whole or in part because of the availability of able, willing and qualified workers if the employer demonstrates, consistent with subsection (c)(3)(B), that such workers are not actually available at the time or place such labor or services are required.

“(3) PETITION DECISION.—

“(A) IN GENERAL.—Not later than 7 business days after the Secretary of Labor issues the certification, the Secretary of Homeland Security shall issue a decision on the petition and shall transmit a notice of action to the petitioner via the electronic platform.

“(B) APPROVAL.—Upon approval of a petition under this section, the Secretary of Homeland Security shall ensure that such approval is noted in the electronic platform and is available to the Secretary of State and U.S. Customs and Border Protection, as necessary, to facilitate visa issuance and admission.

“(C) PARTIAL APPROVAL.—A petition for multiple named beneficiaries may be partially approved with respect to eligible beneficiaries notwithstanding the ineligibility, or potential ineligibility, of one or more other beneficiaries.

“(D) POST-CERTIFICATION AMENDMENTS.—The Secretary of Labor shall provide a process for amending a request for labor certification in conjunction with an H-2A petition, subsequent to certification by the Secretary of Labor, in cases in which the requested amendment does not materially change the petition (including the job order).

“(4) ROLES OF AGRICULTURAL ASSOCIATIONS.—

“(A) MEMBER'S VIOLATION DOES NOT NECESSARILY DISQUALIFY ASSOCIATION OR OTHER MEMBERS.—If an individual producer member of a joint employer association is determined to have committed an act that results in the denial of a petition with respect to the member, the denial shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge of, or reason to know of, the violation.

“(B) ASSOCIATION'S VIOLATION DOES NOT NECESSARILY DISQUALIFY MEMBERS.—

“(i) If an association representing agricultural producers as a joint employer is determined to have committed an act that results in the denial of a petition with respect to the association, the denial shall apply only to the association and does not apply to any individual producer member of the association unless the Secretary of Labor determines that the member participated in, had knowledge of, or reason to know of, the violation.

“(ii) If an association of agricultural producers certified as a sole employer is determined to have committed an act that results in the denial of a petition with respect to the association, no individual producer member of such association may be the beneficiary of the services of H-2A workers in the commodity and occupation in which such aliens were employed by the association which was denied during the period such denial is in force, unless such producer member employs such aliens in the commodity and occupation in question directly or through an association which is a joint employer of such workers with the producer member.

“(5) SPECIAL PROCEDURES.—The Secretary of Labor, in consultation with the Secretary of Agriculture and Secretary of Homeland Security, may by regulation establish alternate procedures that reasonably modify program requirements under this section, when the Secretary determines that such modifications are required due to the unique nature of the work involved.

“(6) CONSTRUCTION OCCUPATIONS.—An employer may not file a petition under this section on behalf of a worker if the majority of the worker's duties will fall within a construction or extraction occupational classification.

“(i) NON-TEMPORARY OR -SEASONAL NEEDS.—

“(1) IN GENERAL.—Notwithstanding the requirement in section 101(a)(15)(H)(ii)(a) that the agricultural labor or services performed by an H-2A worker be of a temporary or seasonal nature, the Secretary of Homeland Security may, consistent with the provisions of this subsection, approve a petition for an H-2A worker to perform agricultural services or labor that is not of a temporary or seasonal nature.

“(2) NUMERICAL LIMITATIONS.—

“(A) FIRST 3 FISCAL YEARS.—The total number of aliens who may be issued visas or otherwise provided H-2A nonimmigrant status under paragraph (1) for the first fiscal year during which the first visa is issued under such paragraph and for each of the following two fiscal years may not exceed 20,000.

“(B) FISCAL YEARS 4 THROUGH 10.—

“(i) IN GENERAL.—The total number of aliens who may be issued visas or otherwise provided H-2A nonimmigrant status under paragraph (1) for the first fiscal year following the fiscal years referred to in subparagraph (A) and for each of the following 6 fiscal years may not exceed a numerical limitation jointly imposed by the Secretary of Agriculture and Secretary of Labor in accordance with clause (ii).

“(ii) ANNUAL ADJUSTMENTS.—For each fiscal year referred to in clause (i), the Secretary of Agriculture and Secretary of Labor, in consultation with the Secretary of Homeland Security, shall establish a numerical limitation for purposes of clause (i). Such numerical limitation may not be lower 20,000 and may not vary by more than 12.5 percent compared to the numerical limitation applicable to the immediately preceding fiscal year. In establishing such numerical limitation, the Secretaries shall consider appropriate factors, including—

“(I) a demonstrated shortage of agricultural workers;

“(II) the level of unemployment and underemployment of agricultural workers during the preceding fiscal year;

“(III) the number of H-2A workers sought by employers during the preceding fiscal year to engage in agricultural labor or services not of a temporary or seasonal nature;

“(IV) the number of such H-2A workers issued a visa in the most recent fiscal year who remain in the United States in compliance with the terms of such visa;

“(V) the estimated number of United States workers, including workers who obtained certified agricultural worker status under title I of the Farm Workforce Modernization Act of 2021, who worked during the preceding fiscal year in agricultural labor or services not of a temporary or seasonal nature;

“(VI) the number of such United States workers who accepted jobs offered by employers using the online job registry during the preceding fiscal year;

“(VII) any growth or contraction of the United States agricultural industry that has increased or decreased the demand for agricultural workers; and

“(VIII) any changes in the real wages paid to agricultural workers in the United States as an indication of a shortage or surplus of agricultural labor.

“(C) SUBSEQUENT FISCAL YEARS.—For each fiscal year following the fiscal years referred to in subparagraph (B), the Secretary of Agriculture and Secretary of Labor shall jointly determine, in consultation with the Secretary of Homeland Security, and after considering appropriate factors, including those factors listed in subclauses (I) through (VIII) of subparagraph (B)(ii), whether to establish a numerical limitation for that fiscal year. If a numerical limitation is so established—

“(i) such numerical limitation may not be lower than highest number of aliens admitted under this subsection in any of the three fiscal years immediately preceding the fiscal year for which the numerical limitation is to be established; and

“(ii) the total number of aliens who may be issued visas or otherwise provided H-2A nonimmigrant status under paragraph (1) for that fiscal year may not exceed such numerical limitation.

“(D) EMERGENCY PROCEDURES.—The Secretary of Agriculture and Secretary of Labor, in consultation with the Secretary of Homeland Security, shall jointly establish by regulation procedures for immediately adjusting a numerical limitation imposed under subparagraph (B) or (C) to account for significant labor shortages.

“(3) ALLOCATION OF VISAS.—

“(A) BI-ANNUAL ALLOCATION.—The annual allocation of visas described in paragraph (2) shall be evenly allocated between two halves of the fiscal year unless the Secretary of Homeland Security, in consultation with the Secretary of Agriculture and Secretary of Labor, determines that an alternative allocation would better accommodate demand for visas. Any unused visas in the first half of the fiscal year shall be added to the allocation for the subsequent half of the same fiscal year.

“(B) RESERVE FOR DAIRY LABOR OR SERVICES.—

“(i) IN GENERAL.—Of the visa numbers made available in each half of the fiscal year pursuant to subparagraph (A), 50 percent of such visas shall be reserved for employers filing petitions seeking H-2A workers to engage in agricultural labor or services in the dairy industry.

“(ii) EXCEPTION.—If, after 4 months have elapsed in one half of the fiscal year, the Secretary of Homeland Security determines that application of clause (i) will result in visas going unused during that half of the fiscal year, clause (i) shall not apply to visas under this paragraph during the remainder of such calendar half.

“(C) LIMITED ALLOCATION FOR CERTAIN SPECIAL PROCEDURES INDUSTRIES.—

“(i) IN GENERAL.—Notwithstanding the numerical limitations under paragraph (2), up to 500 aliens may be issued visas or otherwise provided H-2A nonimmigrant status under paragraph (1) in a fiscal year for range sheep or goat herding.

“(ii) LIMITATION.—The total number of aliens in the United States in valid H-2A status under clause (i) at any one time may not exceed 500.

“(iii) CLARIFICATION.—Any visas issued under this subparagraph may not be considered for purposes of the annual adjustments under subparagraphs (B) and (C) of paragraph (2).

“(4) ANNUAL ROUND TRIP HOME.—

“(A) IN GENERAL.—In addition to the other requirements of this section, an employer shall provide H-2A workers employed under this subsection, at no cost to such workers, with annual round trip travel, including transportation and subsistence during travel, to their homes in their communities of origin. The employer must provide such travel within 14 months of the initiation of the worker's employment, and no more than 14 months can elapse between each required period of travel.

“(B) LIMITATION.—The cost of travel under subparagraph (A) need not exceed the lesser of—

“(i) the actual cost to the worker of the transportation and subsistence involved; or

“(ii) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

“(5) FAMILY HOUSING.—An employer seeking to employ an H-2A worker pursuant to this subsection shall offer family housing to workers with families if such workers are engaged in agricultural employment that is not of a seasonal or temporary nature. The worker may reject such an offer. The employer may not charge the

worker for the worker's housing, except that if the worker accepts family housing, a prorated rent based on the fair market value for such housing may be charged for the worker's family members.

**“(6) WORKPLACE SAFETY PLAN FOR DAIRY EMPLOYEES.—**

**“(A) IN GENERAL.—**If an employer is seeking to employ a worker in agricultural labor or services in the dairy industry pursuant to this subsection, the employer must report incidents consistent with the requirements under section 1904.39 of title 29, Code of Federal Regulations, and maintain an effective worksite safety and compliance plan to prevent workplace accidents and otherwise ensure safety. Such plan shall—

**“(i) be in writing in English and, to the extent necessary, any language common to a significant portion of the workers if they are not fluent in English; and**

**“(ii) be posted at a conspicuous location at the worksite and provided to employees prior to the commencement of labor or services.**

**“(B) CONTENTS OF PLAN.—**The Secretary of Labor, in consultation with the Secretary of Agriculture, shall establish by regulation the minimum requirements for the plan described in subparagraph (A). Such plan shall include measures to—

**“(i) require workers (other than the employer's family members) whose positions require contact with animals to complete animal care training, including animal handling and job-specific animal care;**

**“(ii) protect against sexual harassment and violence, resolve complaints involving harassment or violence, and protect against retaliation against workers reporting harassment or violence; and**

**“(iii) contain other provisions necessary for ensuring workplace safety, as determined by the Secretary of Labor, in consultation with the Secretary of Agriculture.**

**“(C) CLARIFICATION.—**Nothing in this paragraph is intended to apply to persons or entities that are not seeking to employ workers under this section. Nothing in this paragraph is intended to limit any other Federal or State authority to promulgate, enforce, or maintain health and safety standards related to the dairy industry.

**“(j) ELIGIBILITY FOR H-2A STATUS AND ADMISSION TO THE UNITED STATES.—**

**“(1) DISQUALIFICATION.—**An alien shall be ineligible for admission to the United States as an H-2A worker pursuant to a petition filed under this section if the alien was admitted to the United States as an H-2A worker within the past 5 years of the date the petition was filed and—

**“(A) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission has expired, unless the alien has good cause for such failure to depart; or**

**“(B) otherwise violated a term or condition of admission into the United States as an H-2A worker.**

**“(2) VISA VALIDITY.—**A visa issued to an H-2A worker shall be valid for 3 years and shall allow for multiple entries during the approved period of admission.

**“(3) PERIOD OF AUTHORIZED STAY; ADMISSION.—**

**“(A) IN GENERAL.—**An alien admissible as an H-2A worker shall be authorized to stay in the United States for the period of employment specified in the petition approved by the Secretary of Homeland Security under this section. The maximum continuous period of authorized stay for an H-2A worker is 36 months.

**“(B) REQUIREMENT TO REMAIN OUTSIDE THE UNITED STATES.—**In the case of an H-2A worker whose maximum continuous period of authorized stay (including any extensions) has expired, the alien may not again be eligible for such stay until the alien remains outside the

United States for a cumulative period of at least 45 days.

**“(C) EXCEPTIONS.—**The Secretary of Homeland Security shall deduct absences from the United States that take place during an H-2A worker's period of authorized stay from the period that the alien is required to remain outside the United States under subparagraph (B), if the alien or the alien's employer requests such a deduction, and provides clear and convincing proof that the alien qualifies for such a deduction. Such proof shall consist of evidence including, but not limited to, arrival and departure records, copies of tax returns, and records of employment abroad.

**“(D) ADMISSION.—**In addition to the maximum continuous period of authorized stay, an H-2A worker's authorized period of admission shall include an additional period of 10 days prior to the beginning of the period of employment for the purpose of traveling to the place of employment and 45 days at the end of the period of employment for the purpose of traveling home or seeking an extension of status based on a subsequent offer of employment if the worker has not reached the maximum continuous period of authorized stay under subparagraph (A) (subject to the exceptions in subparagraph (C)).

**“(4) CONTINUING H-2A WORKERS.—**

**“(A) SUCCESSIVE EMPLOYMENT.—**An H-2A worker is authorized to start new or concurrent employment upon the filing of a nonfrivolous H-2A petition, or as of the requested start date, whichever is later if—

**“(i) the petition to start new or concurrent employment was filed prior to the expiration of the H-2A worker's period of admission as defined in paragraph (3)(D); and**

**“(ii) the H-2A worker has not been employed without authorization in the United States from the time of last admission to the United States in H-2A status through the filing of the petition for new employment.**

**“(B) PROTECTION DUE TO IMMIGRANT VISA BACKLOGS.—**Notwithstanding the limitations on the period of authorized stay described in paragraph (3), any H-2A worker who—

**“(i) is the beneficiary of an approved petition, filed under section 204(a)(1)(E) or (F) for preference status under section 203(b)(3)(A)(iii); and**

**“(ii) is eligible to be granted such status but for the annual limitations on visas under section 203(b)(3)(A),**

may apply for, and the Secretary of Homeland Security may grant, an extension of such non-immigrant status until the Secretary of Homeland Security issues a final administrative decision on the alien's application for adjustment of status or the Secretary of State issues a final decision on the alien's application for an immigrant visa.

**“(5) ABANDONMENT OF EMPLOYMENT.—**

**“(A) IN GENERAL.—**Except as provided in subparagraph (B), an H-2A worker who abandons the employment which was the basis for the worker's authorized stay, without good cause, shall be considered to have failed to maintain H-2A status and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

**“(B) GRACE PERIOD TO SECURE NEW EMPLOYMENT.—**An H-2A worker shall not be considered to have failed to maintain H-2A status solely on the basis of a cessation of the employment on which the alien's classification was based for a period of 45 consecutive days, or until the end of the authorized validity period, whichever is shorter, once during each authorized validity period.

**“(k) REQUIRED DISCLOSURES.—**

**“(1) DISCLOSURE OF WORK CONTRACT.—**Not later than the time the H-2A worker applies for a visa, the employer shall provide the worker with a copy of the work contract that includes the disclosures and rights under this section (or in the absence of such a contract, a copy of the job order and proof of the certification described

in subparagraphs (B) and (D) of subsection (h)(2)). An H-2A worker moving from one H-2A employer to a subsequent H-2A employer shall be provided with a copy of the new employment contract no later than the time an offer of employment is made by the subsequent employer.

**“(2) HOURS AND EARNINGS STATEMENTS.—**The employer shall furnish to H-2A workers, on or before each payday, in one or more written statements—

**“(A) the worker's total earnings for the pay period;**

**“(B) the worker's hourly rate of pay, piece rate of pay, or both;**

**“(C) the hours of employment offered to the worker and the hours of employment actually worked;**

**“(D) if piece rates of pay are used, the units produced daily;**

**“(E) an itemization of the deductions made from the worker's wages; and**

**“(F) any other information required by Federal, State or local law.**

**“(3) NOTICE OF WORKER RIGHTS.—**The employer must post and maintain in a conspicuous location at the place of employment, a poster provided by the Secretary of Labor in English, and, to the extent necessary, any language common to a significant portion of the workers if they are not fluent in English, which sets out the rights and protections for workers employed pursuant to this section.

**“(l) LABOR CONTRACTORS; FOREIGN LABOR RECRUITERS; PROHIBITION ON FEES.—**

**“(1) LABOR CONTRACTORS.—**

**“(A) SURETY BOND.—**An employer that is a labor contractor who seeks to employ H-2A workers shall maintain a surety bond in an amount required under subparagraph (B). Such bond shall be payable to the Secretary of Labor or pursuant to the resolution of a civil or criminal proceeding, for the payment of wages and benefits, including any assessment of interest, owed to an H-2A worker or a similarly employed United States worker, or a United States worker who has been rejected or displaced in violation of this section.

**“(B) AMOUNT OF BOND.—**The Secretary of Labor shall annually publish in the Federal Register a schedule of required bond amounts that are determined by such Secretary to be sufficient for labor contractors to discharge financial obligations under this section based on the number of workers the labor contractor seeks to employ and the wages such workers are required to be paid.

**“(C) PREMIUM BOND.—**A labor contractor seeking to file a petition involving more than one start date under subsection (h)(1)(C) shall maintain a surety bond that is at least 15 percent higher than the applicable bond amount determined by the Secretary under subparagraph (B).

**“(D) USE OF FUNDS.—**Any sums paid to the Secretary under subparagraph (A) that are not paid to a worker because of the inability to do so within a period of 5 years following the date of a violation giving rise to the obligation to pay shall remain available to the Secretary without further appropriation until expended to support the enforcement of this section.

**“(2) PROHIBITION AGAINST EMPLOYEES PAYING FEES.—**Neither the employer nor its agents shall seek or receive payment of any kind from any worker for any activity related to the H-2A process, including payment of the employer's attorneys' fees, application fees, or recruitment costs. An employer and its agents may receive reimbursement for costs that are the responsibility and primarily for the benefit of the worker, such as government-required passport fees.

**“(3) THIRD PARTY CONTRACTS.—**The contract between an employer and any labor contractor or any foreign labor recruiter (or any agent of such labor contractor or foreign labor recruiter) whom the employer engages shall include a term providing for the termination of such contract

for cause if the contractor or recruiter, either directly or indirectly, in the placement or recruitment of H-2A workers seeks or receives payments or other compensation from prospective employees. Upon learning that a labor contractor or foreign labor recruiter has sought or collected such payments, the employer shall so terminate any contracts with such contractor or recruiter.

“(m) ENFORCEMENT AUTHORITY.—

“(1) IN GENERAL.—The Secretary of Labor is authorized to take such actions against employers, including imposing appropriate penalties and seeking monetary and injunctive relief and specific performance of contractual obligations, as may be necessary to ensure compliance with the requirements of this section and with the applicable terms and conditions of employment.

“(2) COMPLAINT PROCESS.—

“(A) PROCESS.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints alleging failure of an employer to comply with the requirements under this section and with the applicable terms and conditions of employment.

“(B) FILING.—A complaint referred to in subparagraph (A) may be filed not later than 2 years after the date of the conduct that is the subject of the complaint.

“(C) COMPLAINT NOT EXCLUSIVE.—A complaint filed under this paragraph is not an exclusive remedy and the filing of such a complaint does not waive any rights or remedies of the aggrieved party under this law or other laws.

“(D) DECISION AND REMEDIES.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer failed to comply with the requirements of this section or the terms and conditions of employment, the Secretary of Labor may require payment of unpaid wages, unpaid benefits, fees assessed in violation of this section, damages, and civil money penalties. The Secretary is also authorized to impose other administrative remedies, including disqualification of the employer from utilizing the H-2A program for a period of up to 5 years in the event of willful or multiple material violations. The Secretary is authorized to permanently disqualify an employer from utilizing the H-2A program upon a subsequent finding involving willful or multiple material violations.

“(E) DISPOSITION OF PENALTIES.—Civil penalties collected under this paragraph shall be deposited into the H-2A Labor Certification Fee Account established under section 203 of the Farm Workforce Modernization Act of 2021.

“(3) STATUTORY CONSTRUCTION.—Nothing in this subsection may be construed as limiting the authority of the Secretary of Labor to conduct an investigation—

“(A) under any other law, including any law affecting migrant and seasonal agricultural workers; or

“(B) in the absence of a complaint.

“(4) RETALIATION PROHIBITED.—It is a violation of this subsection for any person to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against, or to cause any person to intimidate, threaten, restrain, coerce, blacklist, or in any manner discriminate against, an employee, including a former employee or an applicant for employment, because the employee—

“(A) has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation under this section, or any rule or regulation relating to this section;

“(B) has filed a complaint concerning the employer's compliance with the requirements under this section or any rule or regulation pertaining to this section;

“(C) cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer's compliance with the requirements under this section or any rule or regulation pertaining to this section; or

“(D) has taken steps to exercise or assert any right or protection under the provisions of this section, or any rule or regulation pertaining to this section, or any other relevant Federal, State, or local law.

“(5) INTERAGENCY COMMUNICATION.—The Secretary of Labor, in consultation with the Secretary of Homeland Security, Secretary of State and the Equal Employment Opportunity Commission, shall establish mechanisms by which the agencies and their components share information, including by public electronic means, regarding complaints, studies, investigations, findings and remedies regarding compliance by employers with the requirements of the H-2A program and other employment-related laws and regulations.

“(n) DEFINITIONS.—In this section:

“(1) DISPLACE.—The term ‘displace’ means to lay off a similarly employed United States worker, other than for lawful job-related reasons, in the occupation and area of intended employment for the job for which H-2A workers are sought.

“(2) H-2A WORKER.—The term ‘H-2A worker’ means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

“(3) JOB ORDER.—The term ‘job order’ means the document containing the material terms and conditions of employment, including obligations and assurances required under this section or any other law.

“(4) ONLINE JOB REGISTRY.—The term ‘online job registry’ means the online job registry of the Secretary of Labor required under section 201(b) of the Farm Workforce Modernization Act of 2021 (or similar successor registry).

“(5) SIMILARLY EMPLOYED.—The term ‘similarly employed’, in the case of a worker, means a worker in the same occupational classification as the classification or classifications for which the H-2A worker is sought.

“(6) UNITED STATES WORKER.—The term ‘United States worker’ means any worker who is—

“(A) a citizen or national of the United States;

“(B) an alien who is lawfully admitted for permanent residence, is admitted as a refugee under section 207, is granted asylum under section 208, or is an immigrant otherwise authorized to be employed in the United States;

“(C) an alien granted certified agricultural worker status under title I of the Farm Workforce Modernization Act of 2021; or

“(D) an individual who is not an unauthorized alien (as defined in section 274A(h)(3)) with respect to the employment in which the worker is engaging.

“(o) FEES; AUTHORIZATION OF APPROPRIATIONS.—

“(1) FEES.—

“(A) IN GENERAL.—The Secretary of Homeland Security shall impose a fee to process petitions under this section. Such fee shall be set at a level that is sufficient to recover the reasonable costs of processing the petition, including the reasonable costs of providing labor certification by the Secretary of Labor.

“(B) DISTRIBUTION.—Fees collected under subparagraph (A) shall be deposited as offsetting receipts into the immigration examinations fee account in section 286(m), except that the portion of fees assessed for the Secretary of Labor shall be deposited into the H-2A Labor Certification Fee Account established pursuant to section 203(c) of the Farm Workforce Modernization Act of 2021.

“(2) APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year such sums as necessary for the purposes of—

“(A) recruiting United States workers for labor or services which might otherwise be performed by H-2A workers, including by ensuring that State workforce agencies are sufficiently funded to fulfill their functions under this section;

“(B) enabling the Secretary of Labor to make determinations and certifications under this section and under section 212(a)(5)(A)(i);

“(C) monitoring the terms and conditions under which H-2A workers (and United States workers employed by the same employers) are employed in the United States; and

“(D) enabling the Secretary of Agriculture to carry out the Secretary of Agriculture's duties and responsibilities under this section.”.

## SEC. 203. AGENCY ROLES AND RESPONSIBILITIES.

(a) RESPONSIBILITIES OF THE SECRETARY OF LABOR.—With respect to the administration of the H-2A program, the Secretary of Labor shall be responsible for—

(1) consulting with State workforce agencies to—

(A) review and process job orders;

(B) facilitate the recruitment and referral of able, willing and qualified United States workers who will be available at the time and place needed;

(C) determine prevailing wages and practices; and

(D) conduct timely inspections to ensure compliance with applicable Federal, State, or local housing standards and Federal regulations for H-2A housing;

(2) determining whether the employer has met the conditions for approval of the H-2A petition described in section 218 of the Immigration and Nationality Act (8 U.S.C. 1188);

(3) determining, in consultation with the Secretary of Agriculture, whether a job opportunity is of a seasonal or temporary nature;

(4) determining whether the employer has complied or will comply with the H-2A program requirements set forth in section 218 of the Immigration and Nationality Act (8 U.S.C. 1188);

(5) processing and investigating complaints consistent with section 218(m) of the Immigration and Nationality Act (8 U.S.C. 1188(m));

(6) referring any matter as appropriate to the Inspector General of the Department of Labor for investigation;

(7) ensuring that guidance to State workforce agencies to conduct wage surveys is regularly updated; and

(8) issuing such rules and regulations as are necessary to carry out the Secretary of Labor's responsibilities under this Act and the amendments made by this Act.

(b) RESPONSIBILITIES OF THE SECRETARY OF HOMELAND SECURITY.—With respect to the administration of the H-2A program, the Secretary of Homeland Security shall be responsible for—

(1) adjudicating petitions for the admission of H-2A workers, which shall include an assessment as to whether each beneficiary will be employed in accordance with the terms and conditions of the certification and whether any named beneficiaries qualify for such employment;

(2) transmitting a copy of the final decision on the petition to the employer, and in the case of approved petitions, ensuring that the petition approval is reflected in the electronic platform to facilitate the prompt issuance of a visa by the Department of State (if required) and the admission of the H-2A workers to the United States;

(3) establishing a reliable and secure method through which H-2A workers can access information about their H-2A visa status, including information on pending, approved, or denied petitions to extend such status;

(4) investigating and preventing fraud in the program, including the utilization of H-2A workers for other than allowable agricultural labor or services; and

(5) issuing such rules and regulations as are necessary to carry out the Secretary of Homeland Security's responsibilities under this Act and the amendments made by this Act.

(c) ESTABLISHMENT OF ACCOUNT AND USE OF FUNDS.—

(1) ESTABLISHMENT OF ACCOUNT.—There is established in the general fund of the Treasury a separate account, which shall be known as the “H-2A Labor Certification Fee Account”. Notwithstanding any other provisions of law, there

shall be deposited as offsetting receipts into the account all amounts—

(A) collected as a civil penalty under section 218(m)(2)(E) of the Immigration and Nationality Act; and

(B) collected as a fee under section 218(o)(1)(B) of the Immigration and Nationality Act.

(2) **USE OF FEES.**—Amounts deposited into the H-2A Labor Certification Fee Account shall be available (except as otherwise provided in this paragraph) without fiscal year limitation and without the requirement for specification in appropriations Acts to the Secretary of Labor for use, directly or through grants, contracts, or other arrangements, in such amounts as the Secretary of Labor determines are necessary for the costs of Federal and State administration in carrying out activities in connection with labor certification under section 218 of the Immigration and Nationality Act. Such costs may include personnel salaries and benefits, equipment and infrastructure for adjudication and customer service processes, the operation and maintenance of an on-line job registry, and program integrity activities. The Secretary, in determining what amounts to transfer to States for State administration in carrying out activities in connection with labor certification under section 218 of the Immigration and Nationality Act shall consider the number of H-2A workers employed in that State and shall adjust the amount transferred to that State accordingly. In addition, 10 percent of the amounts deposited into the H-2A Labor Certification Fee Account shall be available to the Office of Inspector General of the Department of Labor to conduct audits and criminal investigations relating to such foreign labor certification programs.

(3) **ADDITIONAL FUNDS.**—Amounts available under paragraph (1) shall be available in addition to any other funds appropriated or made available to the Department of Labor under other laws, including section 218(o)(2) of the Immigration and Nationality Act.

#### **SEC. 204. WORKER PROTECTION AND COMPLIANCE.**

(a) **EQUALITY OF TREATMENT.**—H-2A workers shall not be denied any right or remedy under any Federal, State, or local labor or employment law applicable to United States workers engaged in agricultural employment.

(b) **APPLICABILITY OF OTHER LAWS.**—

(1) **MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT.**—H-2A workers shall be considered migrant agricultural workers for purposes of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

(2) **WAIVER OF RIGHTS PROHIBITED.**—Agreements by H-2A workers to waive or modify any rights or protections under this Act or section 218 of the Immigration and Nationality Act (8 U.S.C. 1188) shall be considered void or contrary to public policy except as provided in a collective bargaining agreement with a bona fide labor organization.

(3) **MEDIATION.**—

(A) **FREE MEDIATION SERVICES.**—The Federal Mediation and Conciliation Service shall be available to assist in resolving disputes arising under this section between H-2A workers and agricultural employers without charge to the parties.

(B) **COMPLAINT.**—If an H-2A worker files a civil lawsuit alleging one or more violations of section 218 of the Immigration and Nationality Act (8 U.S.C. 1188), the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), or the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.), not later than 60 days after the filing of proof of service of the complaint, a party to the lawsuit may file a request with the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute.

(C) **NOTICE.**—Upon filing a request under subparagraph (B) and giving of notice to the par-

ties, the parties shall attempt mediation within the period specified in subparagraph (D), except that nothing in this paragraph shall limit the ability of a court to order preliminary injunctive relief to protect health and safety or to otherwise prevent irreparable harm.

(D) **90-DAY LIMIT.**—The Federal Mediation and Conciliation Service may conduct mediation or other nonbinding dispute resolution activities for a period not to exceed 90 days beginning on the date on which the Federal Mediation and Conciliation Service receives a request for assistance under subparagraph (B) unless the parties agree to an extension of such period.

(E) **AUTHORIZATION OF APPROPRIATIONS.**—

(i) **IN GENERAL.**—Subject to clause (ii), there is authorized to be appropriated to the Federal Mediation and Conciliation Service, such sums as may be necessary for each fiscal year to carry out this subparagraph.

(ii) **MEDIATION.**—Notwithstanding any other provision of law, the Director of the Federal Mediation and Conciliation Service is authorized—

(I) to conduct the mediation or other dispute resolution activities from any other account containing amounts available to the Director; and

(II) to reimburse such account with amounts appropriated pursuant to clause (i).

(F) **PRIVATE MEDIATION.**—If all parties agree, a private mediator may be employed as an alternative to the Federal Mediation and Conciliation Service.

(G) **FARM LABOR CONTRACTOR REQUIREMENTS.**—

(1) **SURETY BONDS.**—

(A) **REQUIREMENT.**—Section 101 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1811), is amended by adding at the end the following:

“(e) A farm labor contractor shall maintain a surety bond in an amount determined by the Secretary to be sufficient for ensuring the ability of the farm labor contractor to discharge its financial obligations, including payment of wages and benefits to employees. Such a bond shall be available to satisfy any amounts ordered to be paid by the Secretary or by court order for failure to comply with the obligations of this Act. The Secretary of Labor shall annually publish in the Federal Register a schedule of required bond amounts that are determined by such Secretary to be sufficient for farm labor contractors to discharge financial obligations based on the number of workers to be covered.”

(B) **REGISTRATION DETERMINATIONS.**—Section 103(a) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1813(a)), is amended—

(i) in paragraph (4), by striking “or” at the end;

(ii) in paragraph (5)(B), by striking “or” at the end;

(iii) in paragraph (6), by striking the period at the end and inserting “;”;

(iv) by adding at the end the following:

“(7) has failed to maintain a surety bond in compliance with section 101(e); or

“(8) has been disqualified by the Secretary of Labor from importing nonimmigrants described in section 101(a)(15)(H)(ii) of the Immigration and Nationality Act.”

(2) **SUCCESSORS IN INTEREST.**—

(A) **DECLARATION.**—Section 102 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1812), is amended—

(i) in paragraph (4), by striking “and” at the end;

(ii) in paragraph (5), by striking the period at the end and inserting “; and”; and

(iii) by adding at the end the following:

“(6) a declaration, subscribed and sworn to by the applicant, stating whether the applicant has a familial, contractual, or employment relationship with, or shares vehicles, facilities, property, or employees with, a person who has been refused issuance or renewal of a certificate, or has had a certificate suspended or revoked, pursuant to section 103.”

(B) **REBUTTABLE PRESUMPTION.**—Section 103 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1813), as amended by this Act, is further amended by inserting after subsection (a) the following new subsection (and by redesignating the subsequent subsections accordingly):

“(b)(1) There shall be a rebuttable presumption that an applicant for issuance or renewal of a certificate is not the real party in interest in the application if the applicant—

“(A) is the immediate family member of any person who has been refused issuance or renewal of a certificate, or has had a certificate suspended or revoked; and

“(B) identifies a vehicle, facility, or real property under paragraph (2) or (3) of section 102 that has been previously listed by a person who has been refused issuance or renewal of a certificate, or has had a certificate suspended or revoked.

“(2) An applicant described in paragraph (1) bears the burden of demonstrating to the Secretary’s satisfaction that the applicant is the real party in interest in the application.”

#### **SEC. 205. REPORT ON WAGE PROTECTIONS.**

(a) Not later than 3 years after the date of the enactment of this Act, and every 3 years thereafter, the Secretary of Labor and Secretary of Agriculture shall prepare and transmit to the Committees on the Judiciary of the House of Representatives and Senate, a report that addresses—

(1) whether, and the manner in which, the employment of H-2A workers in the United States has impacted the wages, working conditions, or job opportunities of United States farm workers;

(2) whether, and the manner in which, the adverse effect wage rate increases or decreases wages on United States farms, broken down by geographic region and farm size;

(3) whether any potential impact of the adverse effect wage rate varies based on the percentage of workers in a geographic region that are H-2A workers;

(4) the degree to which the adverse effect wage rate is affected by the inclusion in wage surveys of piece rate compensation, bonus payments, and other pay incentives, and whether such forms of incentive compensation should be surveyed and reported separately from hourly base rates;

(5) whether, and the manner in which, other factors may artificially affect the adverse effect wage rate, including factors that may be specific to a region, State, or region within a State;

(6) whether, and the manner in which, the H-2A program affects the ability of United States farms to compete with agricultural commodities imported from outside the United States;

(7) the number and percentage of farmworkers in the United States whose incomes are below the poverty line;

(8) whether alternative wage standards would be sufficient to prevent wages in occupations in which H-2A workers are employed from falling below the wage level that would have prevailed in the absence of the H-2A program;

(9) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage; and

(10) recommendations for future wage protection under this section.

(b) In preparing the report described in subsection (a), the Secretary of Labor and Secretary of Agriculture shall engage with equal numbers of representatives of agricultural employers and agricultural workers, both locally and nationally.

#### **SEC. 206. PORTABLE H-2A VISA PILOT PROGRAM.**

(a) **ESTABLISHMENT OF PILOT PROGRAM.**—

(1) **IN GENERAL.**—Not later than 18 months after the date of the enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Labor and Secretary of

Agriculture, shall establish through regulation a 6-year pilot program to facilitate the free movement and employment of temporary or seasonal H-2A workers to perform agricultural labor or services for agricultural employers registered with the Secretary of Agriculture. Notwithstanding the requirements of section 218 of the Immigration and Nationality Act, such regulation shall establish the requirements for the pilot program, consistent with subsection (b). For purposes of this section, such a worker shall be referred to as a portable H-2A worker, and status as such a worker shall be referred to as portable H-2A status.

(2) **ONLINE PLATFORM.**—The Secretary of Homeland Security, in consultation with the Secretary of Labor and the Secretary of Agriculture, shall maintain an online electronic platform to connect portable H-2A workers with registered agricultural employers seeking workers to perform temporary or seasonal agricultural labor or services. Employers shall post on the platform available job opportunities, including a description of the nature and location of the work to be performed, the anticipated period or periods of need, and the terms and conditions of employment. Such platform shall allow portable H-2A workers to search for available job opportunities using relevant criteria, including the types of jobs needed to be filled and the dates and locations of need.

(3) **LIMITATION.**—Notwithstanding the issuance of the regulation described in paragraph (1), the Secretary of State may not issue a portable H-2A visa and the Secretary of Homeland Security may not confer portable H-2A status on any alien until the Secretary of Homeland Security, in consultation with the Secretary of Labor and Secretary of Agriculture, has determined that a sufficient number of employers have been designated as registered agricultural employers under subsection (b)(1) and that such employers have sufficient job opportunities to employ a reasonable number of portable H-2A workers to initiate the pilot program.

(b) **PILOT PROGRAM ELEMENTS.**—The pilot program in subsection (a) shall contain the following elements:

(1) **REGISTERED AGRICULTURAL EMPLOYERS.**—

(A) **DESIGNATION.**—Agricultural employers shall be provided the ability to seek designation as registered agricultural employers. Reasonable fees may be assessed commensurate with the cost of processing applications for designation. A designation shall be valid for a period of up to 3 years unless revoked for failure to comply with program requirements. Registered employers that comply with program requirements may apply to renew such designation for additional periods of up to 3 years for the duration of the pilot program.

(B) **LIMITATIONS.**—Registered agricultural employers may employ aliens with portable H-2A status without filing a petition. Such employers shall pay such aliens at least the wage required under section 218(d) of the Immigration and Nationality Act (8 U.S.C. 1188(d)).

(C) **WORKERS' COMPENSATION.**—If a job opportunity is not covered by or is exempt from the State workers' compensation law, a registered agricultural employer shall provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment, which will provide benefits at least equal to those provided under the State workers' compensation law.

(2) **DESIGNATED WORKERS.**—

(A) **IN GENERAL.**—Individuals who have been previously admitted to the United States in H-2A status, and maintained such status during the period of admission, shall be provided the opportunity to apply for portable H-2A status. Portable H-2A workers shall be subject to the provisions on visa validity and periods of authorized stay and admission for H-2A workers described in paragraphs (2) and (3) of section 218(j) of the Immigration and Nationality Act (8 U.S.C. 1188(j)(2) and (3)).

(B) **LIMITATIONS ON AVAILABILITY OF PORTABLE H-2A STATUS.**—

(i) **INITIAL OFFER OF EMPLOYMENT REQUIRED.**—No alien may be granted portable H-2A status without an initial valid offer of employment to perform temporary or agricultural labor or services from a registered agricultural employer.

(ii) **NUMERICAL LIMITATIONS.**—The total number of aliens who may hold valid portable H-2A status at any one time may not exceed 10,000. Notwithstanding such limitation, the Secretary of Homeland Security may further limit the number of aliens with valid portable H-2A status if the Secretary determines that there are an insufficient number of registered agricultural employers or job opportunities to support the employment of all such portable H-2A workers.

(C) **SCOPE OF EMPLOYMENT.**—During the period of admission, a portable H-2A worker may perform temporary or seasonal agricultural labor or services for any employer in the United States that is designated as a registered agricultural employer pursuant to paragraph (1). An employment arrangement under this section may be terminated by either the portable H-2A worker or the registered agricultural employer at any time.

(D) **TRANSFER TO NEW EMPLOYMENT.**—At the cessation of employment with a registered agricultural employer, a portable H-2A worker shall have 60 days to secure new employment with a registered agricultural employer.

(E) **MAINTENANCE OF STATUS.**—A portable H-2A worker who does not secure new employment with a registered agricultural employer within 60 days shall be considered to have failed to maintain such status and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1188(a)(1)(C)(i)).

(3) **ENFORCEMENT.**—The Secretary of Labor shall be responsible for conducting investigations and random audits of employers to ensure compliance with the employment-related requirements of this section, consistent with section 218(m) of the Immigration and Nationality Act (8 U.S.C. 1188(m)). The Secretary of Labor shall have the authority to collect reasonable civil penalties for violations, which shall be utilized by the Secretary for the administration and enforcement of the provisions of this section.

(4) **ELIGIBILITY FOR SERVICES.**—Section 305 of Public Law 99-603 (100 Stat. 3434) is amended by striking "other employment rights as provided in the worker's specific contract under which the nonimmigrant was admitted" and inserting "employment-related rights".

(c) **REPORT.**—Not later than 6 months before the end of the third fiscal year of the pilot program, the Secretary of Homeland Security, in consultation with the Secretary of Labor and the Secretary of Agriculture, shall prepare and submit to the Committees on the Judiciary of the House of Representatives and the Senate, a report that provides—

(1) the number of employers designated as registered agricultural employers, broken down by geographic region, farm size, and the number of job opportunities offered by such employers;

(2) the number of employers whose designation as a registered agricultural employer was revoked;

(3) the number of individuals granted portable H-2A status in each fiscal year, along with the number of such individuals who maintained portable H-2A status during all or a portion of the 3-year period of the pilot program;

(4) an assessment of the impact of the pilot program on the wages and working conditions of United States farm workers;

(5) the results of a survey of individuals granted portable H-2A status, detailing their experiences with and feedback on the pilot program;

(6) the results of a survey of registered agricultural employers, detailing their experiences with and feedback on the pilot program;

(7) an assessment as to whether the program should be continued and if so, any recommendations for improving the program; and

(8) findings and recommendations regarding effective recruitment mechanisms, including use of new technology to match workers with employers and ensure compliance with applicable labor and employment laws and regulations.

## SEC. 207. IMPROVING ACCESS TO PERMANENT RESIDENCE.

(a) **WORLDWIDE LEVEL.**—Section 201(d)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1151(d)(1)(A)) is amended by striking "140,000" and inserting "180,000".

(b) **VISAS FOR FARMWORKERS.**—Section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) is amended—

(1) in paragraph (1) by striking "28.6 percent of such worldwide level" and inserting "40,040";

(2) in paragraph (2)(A) by striking "28.6 percent of such worldwide level" and inserting "40,040";

(3) in paragraph (3)—

(A) in subparagraph (A)—

(i) in the matter before clause (i), by striking "28.6 percent of such worldwide level" and inserting "80,040"; and

(ii) by amending clause (iii) to read as follows:

"(iii) **OTHER WORKERS.**—Other qualified immigrants who, at the time of petitioning for classification under this paragraph—

"(I) are capable of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States; or

"(II) can demonstrate employment in the United States as an H-2A nonimmigrant worker for at least 100 days in each of at least 10 years.";

(B) by amending subparagraph (B) to read as follows:

"(B) **VISAS ALLOCATED FOR OTHER WORKERS.**—

"(i) **IN GENERAL.**—Except as provided in clauses (ii) and (iii), 50,000 of the visas made available under this paragraph shall be reserved for qualified immigrants described in subparagraph (A)(iii).

"(ii) **PREFERENCE FOR AGRICULTURAL WORKERS.**—Subject to clause (iii), not less than four-fifths of the visas described in clause (i) shall be reserved for—

"(I) qualified immigrants described in subparagraph (A)(ii)(I) who will be performing agricultural labor or services in the United States; and

"(II) qualified immigrants described in subparagraph (A)(ii)(II).

"(iii) **EXCEPTION.**—If because of the application of clause (ii), the total number of visas available under this paragraph for a calendar quarter exceeds the number of qualified immigrants who otherwise may be issued such a visa, clause (ii) shall not apply to visas under this paragraph during the remainder of such calendar quarter.

"(iv) **NO PER COUNTRY LIMITS.**—Visas described under clause (ii) shall be issued without regard to the numerical limitation under section 202(a)(2)."; and

(C) by amending subparagraph (C) by striking "An immigrant visa" and inserting "Except for qualified immigrants petitioning for classification under subparagraph (A)(ii)(II), an immigrant visa";

(4) in paragraph (4), by striking "7.1 percent of such worldwide level" and inserting "9,940"; and

(5) in paragraph (5)(A), in the matter before clause (i), by striking "7.1 percent of such worldwide level" and inserting "9,940".

(c) **PETITIONING PROCEDURE.**—Section 204(a)(1)(E) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(E)) is amended by inserting "or 203(b)(3)(A)(iii)(II)" after "203(b)(1)(A)".

(d) **DUAL INTENT.**—Section 214(b) of the Immigration and Nationality Act (8 U.S.C. 1184(b)) is

amended by striking “section 101(a)(15)(H)(i) except subclause (b1) of such section” and inserting “clause (i), except subclause (b1), or (ii)(a) of section 101(a)(15)(H)”.

**Subtitle B—Preservation and Construction of Farmworker Housing**

**SEC. 220. SHORT TITLE.**

This subtitle may be cited as the “Strategy and Investment in Rural Housing Preservation Act of 2021”.

**SEC. 221. PERMANENT ESTABLISHMENT OF HOUSING PRESERVATION AND REVITALIZATION PROGRAM.**

Title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) is amended by adding at the end the following new section:

**“SEC. 545. HOUSING PRESERVATION AND REVITALIZATION PROGRAM.**

“(a) **ESTABLISHMENT.**—The Secretary shall carry out a program under this section for the preservation and revitalization of multifamily rental housing projects financed under section 515 or both sections 514 and 516.

“(b) **NOTICE OF MATURING LOANS.**—

“(1) **TO OWNERS.**—On an annual basis, the Secretary shall provide written notice to each owner of a property financed under section 515 or both sections 514 and 516 that will mature within the 4-year period beginning upon the provision of such notice, setting forth the options and financial incentives that are available to facilitate the extension of the loan term or the option to decouple a rental assistance contract pursuant to subsection (f).

“(2) **TO TENANTS.**—

“(A) **IN GENERAL.**—For each property financed under section 515 or both sections 514 and 516, not later than the date that is 2 years before the date that such loan will mature, the Secretary shall provide written notice to each household residing in such property that informs them of the date of the loan maturity, the possible actions that may happen with respect to the property upon such maturity, and how to protect their right to reside in Federally assisted housing after such maturity.

“(B) **LANGUAGE.**—Notice under this paragraph shall be provided in plain English and shall be translated to other languages in the case of any property located in an area in which a significant number of residents speak such other languages.

“(c) **LOAN RESTRUCTURING.**—Under the program under this section, the Secretary may restructure such existing housing loans, as the Secretary considers appropriate, for the purpose of ensuring that such projects have sufficient resources to preserve the projects to provide safe and affordable housing for low-income residents and farm laborers, by—

“(1) reducing or eliminating interest;

“(2) deferring loan payments;

“(3) subordinating, reducing, or reamortizing loan debt; and

“(4) providing other financial assistance, including advances, payments, and incentives (including the ability of owners to obtain reasonable returns on investment) required by the Secretary.

“(d) **RENEWAL OF RENTAL ASSISTANCE.**—When the Secretary offers to restructure a loan pursuant to subsection (c), the Secretary shall offer to renew the rental assistance contract under section 521(a)(2) for a 20-year term that is subject to annual appropriations, provided that the owner agrees to bring the property up to such standards that will ensure its maintenance as decent, safe, and sanitary housing for the full term of the rental assistance contract.

“(e) **RESTRICTIVE USE AGREEMENTS.**—

“(1) **REQUIREMENT.**—As part of the preservation and revitalization agreement for a project, the Secretary shall obtain a restrictive use agreement that obligates the owner to operate the project in accordance with this title.

“(2) **TERM.**—

“(A) **NO EXTENSION OF RENTAL ASSISTANCE CONTRACT.**—Except when the Secretary enters

into a 20-year extension of the rental assistance contract for the project, the term of the restrictive use agreement for the project shall be consistent with the term of the restructured loan for the project.

“(B) **EXTENSION OF RENTAL ASSISTANCE CONTRACT.**—If the Secretary enters into a 20-year extension of the rental assistance contract for a project, the term of the restrictive use agreement for the project shall be for 20 years.

“(C) **TERMINATION.**—The Secretary may terminate the 20-year use restrictive use agreement for a project prior to the end of its term if the 20-year rental assistance contract for the project with the owner is terminated at any time for reasons outside the owner's control.

“(f) **DECOUPLING OF RENTAL ASSISTANCE.**—

“(1) **RENEWAL OF RENTAL ASSISTANCE CONTRACT.**—If the Secretary determines that a maturing loan for a project cannot reasonably be restructured in accordance with subsection (c) and the project was operating with rental assistance under section 521, the Secretary may renew the rental assistance contract, notwithstanding any provision of section 521, for a term, subject to annual appropriations, of at least 10 years but not more than 20 years.

“(2) **RENTS.**—Any agreement to extend the term of the rental assistance contract under section 521 for a project shall obligate the owner to continue to maintain the project as decent, safe and sanitary housing and to operate the development in accordance with this title, except that rents shall be based on the lesser of—

“(A) the budget-based needs of the project; or

“(B) the operating cost adjustment factor as a payment standard as provided under section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437 note).

“(g) **MULTIFAMILY HOUSING TRANSFER TECHNICAL ASSISTANCE.**—Under the program under this section, the Secretary may provide grants to qualified non-profit organizations and public housing agencies to provide technical assistance, including financial and legal services, to borrowers under loans under this title for multifamily housing to facilitate the acquisition of such multifamily housing properties in areas where the Secretary determines there is a risk of loss of affordable housing.

“(h) **TRANSFER OF RENTAL ASSISTANCE.**—After the loan or loans for a rental project originally financed under section 515 or both sections 514 and 516 have matured or have been prepaid and the owner has chosen not to restructure the loan pursuant to subsection (c), a tenant residing in such project shall have 18 months prior to loan maturation or prepayment to transfer the rental assistance assigned to the tenant's unit to another rental project originally financed under section 515 or both sections 514 and 516, and the owner of the initial project may rent the tenant's previous unit to a new tenant without income restrictions.

“(i) **ADMINISTRATIVE EXPENSES.**—Of any amounts made available for the program under this section for any fiscal year, the Secretary may use not more than \$1,000,000 for administrative expenses for carrying out such program.

“(j) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated for the program under this section \$200,000,000 for each of fiscal years 2022 through 2026.”.

**SEC. 222. ELIGIBILITY FOR RURAL HOUSING VOUCHERS.**

Section 542 of the Housing Act of 1949 (42 U.S.C. 1490r) is amended by adding at the end the following new subsection:

“(c) **ELIGIBILITY OF HOUSEHOLDS IN SECTIONS 514, 515, AND 516 PROJECTS.**—The Secretary may provide rural housing vouchers under this section for any low-income household (including those not receiving rental assistance) residing, for a term longer than the remaining term of their lease in effect just prior to prepayment, in a property financed with a loan made or insured under section 514 or 515 (42 U.S.C. 1484, 1485) which has been prepaid without restric-

tions imposed by the Secretary pursuant to section 502(c)(5)(G)(ii)(I) (42 U.S.C. 1472(c)(5)(G)(ii)(I)), has been foreclosed, or has matured after September 30, 2005, or residing in a property assisted under section 514 or 516 that is owned by a nonprofit organization or public agency.”.

**SEC. 223. AMOUNT OF VOUCHER ASSISTANCE.**

Notwithstanding any other provision of law, in the case of any rural housing voucher provided pursuant to section 542 of the Housing Act of 1949 (42 U.S.C. 1490r), the amount of the monthly assistance payment for the household on whose behalf such assistance is provided shall be determined as provided in subsection (a) of such section 542.

**SEC. 224. RENTAL ASSISTANCE CONTRACT AUTHORITY.**

Subsection (d) of section 521 of the Housing Act of 1949 (42 U.S.C. 1490a(d)) is amended—

(1) in paragraph (1), by inserting after subparagraph (A) the following new subparagraph (and by redesignating the subsequent subparagraphs accordingly):

“(B) upon request of an owner of a project financed under section 514 or 515, the Secretary is authorized to enter into renewal of such agreements for a period of 20 years or the term of the loan, whichever is shorter, subject to amounts made available in appropriations Acts;” and

(2) by adding at the end the following new paragraph:

“(3) In the case of any rental assistance contract authority that becomes available because of the termination of assistance on behalf of an assisted family—

“(A) at the option of the owner of the rental project, the Secretary shall provide the owner a period of 6 months before such assistance is made available pursuant to subparagraph (B) during which the owner may use such assistance authority to provide assistance of behalf of an eligible unassisted family that—

“(i) is residing in the same rental project that the assisted family resided in prior to such termination; or

“(ii) newly occupies a dwelling unit in such rental project during such period; and

“(B) except for assistance used as provided in subparagraph (A), the Secretary shall use such remaining authority to provide such assistance on behalf of eligible families residing in other rental projects originally financed under section 515 or both sections 514 and 516 of this Act.”.

**SEC. 225. FUNDING FOR MULTIFAMILY TECHNICAL IMPROVEMENTS.**

There is authorized to be appropriated to the Secretary of Agriculture \$50,000,000 for fiscal year 2022 for improving the technology of the Department of Agriculture used to process loans for multifamily housing and otherwise managing such housing. Such improvements shall be made within the 5-year period beginning upon the appropriation of such amounts and such amount shall remain available until the expiration of such 5-year period.

**SEC. 226. PLAN FOR PRESERVING AFFORDABILITY OF RENTAL PROJECTS.**

(a) **PLAN.**—The Secretary of Agriculture (in this section referred to as the “Secretary”) shall submit a written plan to the Congress, not later than the expiration of the 6-month period beginning on the date of the enactment of this Act, for preserving the affordability for low-income families of rental projects for which loans were made under section 515 or made to nonprofit or public agencies under section 514 and avoiding the displacement of tenant households, which shall—

(1) set forth specific performance goals and measures;

(2) set forth the specific actions and mechanisms by which such goals will be achieved;

(3) set forth specific measurements by which progress towards achievement of each goal can be measured;

(4) provide for detailed reporting on outcomes; and



(5) include any legislative recommendations to assist in achievement of the goals under the plan.

(b) **ADVISORY COMMITTEE.**—

(1) **ESTABLISHMENT; PURPOSE.**—The Secretary shall establish an advisory committee whose purpose shall be to assist the Secretary in preserving section 515 properties and section 514 properties owned by nonprofit or public agencies through the multifamily housing preservation and revitalization program under section 545 and in implementing the plan required under subsection (a).

(2) **MEMBER.**—The advisory committee shall consist of 16 members, appointed by the Secretary, as follows:

(A) A State Director of Rural Development for the Department of Agriculture.

(B) The Administrator for Rural Housing Service of the Department of Agriculture.

(C) Two representatives of for-profit developers or owners of multifamily rural rental housing.

(D) Two representatives of non-profit developers or owners of multifamily rural rental housing.

(E) Two representatives of State housing finance agencies.

(F) Two representatives of tenants of multifamily rural rental housing.

(G) One representative of a community development financial institution that is involved in preserving the affordability of housing assisted under sections 514, 515, and 516 of the Housing Act of 1949.

(H) One representative of a nonprofit organization that operates nationally and has actively participated in the preservation of housing assisted by the Rural Housing Service by conducting research regarding, and providing financing and technical assistance for, preserving the affordability of such housing.

(I) One representative of low-income housing tax credit investors.

(J) One representative of regulated financial institutions that finance affordable multifamily rural rental housing developments.

(K) Two representatives from non-profit organizations representing farmworkers, including one organization representing farmworker women.

(3) **MEETINGS.**—The advisory committee shall meet not less often than once each calendar quarter.

(4) **FUNCTIONS.**—In providing assistance to the Secretary to carry out its purpose, the advisory committee shall carry out the following functions:

(A) Assisting the Rural Housing Service of the Department of Agriculture to improve estimates of the size, scope, and condition of rental housing portfolio of the Service, including the time frames for maturity of mortgages and costs for preserving the portfolio as affordable housing.

(B) Reviewing current policies and procedures of the Rural Housing Service regarding preservation of affordable rental housing financed under sections 514, 515, 516, and 538 of the Housing Act of 1949, the Multifamily Preservation and Revitalization Demonstration program (MPR), and the rental assistance program and making recommendations regarding improvements and modifications to such policies and procedures.

(C) Providing ongoing review of Rural Housing Service program results.

(D) Providing reports to the Congress and the public on meetings, recommendations, and other findings of the advisory committee.

(5) **TRAVEL COSTS.**—Any amounts made available for administrative costs of the Department of Agriculture may be used for costs of travel by members of the advisory committee to meetings of the committee.

**SEC. 227. COVERED HOUSING PROGRAMS.**

Paragraph (3) of section 4141(a) of the Violence Against Women Act of 1994 (34 U.S.C. 12491(a)(3)) is amended—

(1) in subparagraph (I), by striking “and” at the end;

(2) by redesignating subparagraph (J) as subparagraph (K); and

(3) by inserting after subparagraph (I) the following new subparagraph:

“(J) rural development housing voucher assistance provided by the Secretary of Agriculture pursuant to section 542 of the Housing Act of 1949 (42 U.S.C. 1490r), without regard to subsection (b) of such section, and applicable appropriation Acts; and”.

**SEC. 228. NEW FARMWORKER HOUSING.**

Section 513 of the Housing Act of 1949 (42 U.S.C. 1483) is amended by adding at the end the following new subsection:

“(f) **FUNDING FOR FARMWORKER HOUSING.**—

“(1) **SECTION 514 FARMWORKER HOUSING LOANS.**—

“(A) **INSURANCE AUTHORITY.**—The Secretary of Agriculture may, to the extent approved in appropriation Acts, insure loans under section 514 (42 U.S.C. 1484) during each of fiscal years 2022 through 2031 in an aggregate amount not to exceed \$200,000,000.

“(B) **AUTHORIZATION OF APPROPRIATIONS FOR COSTS.**—There is authorized to be appropriated \$75,000,000 for each of fiscal years 2022 through 2031 for costs (as such term is defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a)) of loans insured pursuant to the authority under subparagraph (A).

“(2) **SECTION 516 GRANTS FOR FARMWORKER HOUSING.**—There is authorized to be appropriated \$30,000,000 for each of fiscal years 2022 through 2031 for financial assistance under section 516 (42 U.S.C. 1486).

“(3) **SECTION 521 HOUSING ASSISTANCE.**—There is authorized to be appropriated \$2,700,000,000 for each of fiscal years 2022 through 2031 for rental assistance agreements entered into or renewed pursuant to section 521(a)(2) (42 U.S.C. 1490a(a)(2)) or agreements entered into in lieu of debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D).”.

**SEC. 229. LOAN AND GRANT LIMITATIONS.**

Section 514 of the Housing Act of 1949 (42 U.S.C. 1484) is amended by adding at the end the following:

“(j) **PER PROJECT LIMITATIONS ON ASSISTANCE.**—If the Secretary, in making available assistance in any area under this section or section 516 (42 U.S.C. 1486), establishes a limitation on the amount of assistance available per project, the limitation on a grant or loan award per project shall not be less than \$5 million.”.

**SEC. 230. OPERATING ASSISTANCE SUBSIDIES.**

Subsection (a)(5) of section 521 of the Housing Act of 1949 (42 U.S.C. 1490a(a)(5)) is amended—

(1) in subparagraph (A) by inserting “or domestic farm labor legally admitted to the United States and authorized to work in agriculture” after “migrant farmworkers”;

(2) in subparagraph (B)—

(A) by striking “AMOUNT.—In any fiscal year” and inserting “AMOUNT.—

“(i) **HOUSING FOR MIGRANT FARMWORKERS.**—In any fiscal year”;

(B) by inserting “providing housing for migrant farmworkers” after “any project”; and

(C) by inserting at the end the following:

“(ii) **HOUSING FOR OTHER FARM LABOR.**—In any fiscal year, the assistance provided under this paragraph for any project providing housing for domestic farm labor legally admitted to the United States and authorized to work in agriculture shall not exceed an amount equal to 50 percent of the operating costs for the project for the year, as determined by the Secretary. The owner of such project shall not qualify for operating assistance unless the Secretary certifies that the project was unoccupied or underutilized before making units available to such farm labor, and that a grant under this section will not displace any farm worker who is a United States worker.”; and

(3) in subparagraph (D), by adding at the end the following:

“(iii) The term ‘domestic farm labor’ has the same meaning given such term in section 514(f)(3) (42 U.S.C. 1484(f)(3)), except that subparagraph (A) of such section shall not apply for purposes of this section.”.

**SEC. 231. ELIGIBILITY OF CERTIFIED WORKERS.**

Subsection (a) of section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a) is amended—

(1) in paragraph (6), by striking “or” at the end;

(2) by redesignating paragraph (7) as paragraph (8); and

(3) by inserting after paragraph (6) the following:

“(7) an alien granted certified agricultural worker or certified agricultural dependent status under title I of the Farm Workforce Modernization Act of 2021, but solely for financial assistance made available pursuant to section 521 or 542 of the Housing Act of 1949 (42 U.S.C. 1490a, 1490r); or”.

**Subtitle C—Foreign Labor Recruiter Accountability**

**SEC. 251. REGISTRATION OF FOREIGN LABOR RECRUITERS.**

(a) **IN GENERAL.**—Not later than 1 year after the date of the enactment of this Act, the Secretary of Labor, in consultation with the Secretary of State and the Secretary of Homeland Security, shall establish procedures for the electronic registration of foreign labor recruiters engaged in the recruitment of nonimmigrant workers described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) to perform agricultural labor or services in the United States.

(b) **PROCEDURAL REQUIREMENTS.**—The procedures described in subsection (a) shall—

(1) require the applicant to submit a sworn declaration—

(A) stating the applicant’s permanent place of residence or principal place of business, as applicable;

(B) describing the foreign labor recruiting activities in which the applicant is engaged; and

(C) including such other relevant information as the Secretary of Labor and the Secretary of State may require;

(2) include an expeditious means to update and renew registrations;

(3) include a process, which shall include the placement of personnel at each United States diplomatic mission in accordance with subsection (g)(2), to receive information from the public regarding foreign labor recruiters who have allegedly engaged in a foreign labor recruiting activity that is prohibited under this subtitle;

(4) include procedures for the receipt and processing of complaints against foreign labor recruiters and for remedies, including the revocation of a registration or the assessment of fines upon a determination by the Secretary of Labor that the foreign labor recruiter has violated the requirements of this subtitle;

(5) require the applicant to post a bond in an amount sufficient to ensure the ability of the applicant to discharge its responsibilities and ensure protection of workers, including payment of wages; and

(6) allow the Secretary of Labor and the Secretary of State to consult with other appropriate Federal agencies to determine whether any reason exists to deny registration to a foreign labor recruiter or revoke such registration.

(c) **ATTESTATIONS.**—Foreign labor recruiters registering under this subtitle shall attest and agree to abide by the following requirements:

(1) **PROHIBITED FEES.**—The foreign labor recruiter, including any agent or employee of such foreign labor recruiter, shall not assess any recruitment fees on a worker for any foreign labor recruiting activity.

(2) **PROHIBITION ON FALSE AND MISLEADING INFORMATION.**—The foreign labor recruiter shall not knowingly provide materially false or misleading information to any worker concerning

any matter required to be disclosed under this subtitle.

(3) **REQUIRED DISCLOSURES.**—The foreign labor recruiter shall ascertain and disclose to the worker in writing in English and in the primary language of the worker at the time of the worker's recruitment, the following information:

(A) The identity and address of the employer and the identity and address of the person conducting the recruiting on behalf of the employer, including each subcontractor or agent involved in such recruiting.

(B) A copy of the approved job order or work contract under section 218 of the Immigration and Nationality Act, including all assurances and terms and conditions of employment.

(C) A statement, in a form specified by the Secretary—

(i) describing the general terms and conditions associated with obtaining an H-2A visa and maintaining H-2A status;

(ii) affirming the prohibition on the assessment of fees described in paragraph (1), and explaining that such fees, if paid by the employer, may not be passed on to the worker;

(iii) describing the protections afforded the worker under this subtitle, including procedures for reporting violations to the Secretary of State, filing a complaint with the Secretary of Labor, or filing a civil action; and

(iv) describing the protections afforded the worker by section 202 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1375b), including the telephone number for the national human trafficking resource center hotline number.

(4) **BOND.**—The foreign labor recruiter shall agree to maintain a bond sufficient to ensure the ability of the foreign labor recruiter to discharge its responsibilities and ensure protection of workers, and to forfeit such bond in an amount determined by the Secretary under subsections (b)(1)(C)(ii) or (c)(2)(C) of section 252 for failure to comply with the provisions of this subtitle.

(5) **COOPERATION IN INVESTIGATION.**—The foreign labor recruiter shall agree to cooperate in any investigation under section 252 of this subtitle by the Secretary or other appropriate authorities.

(6) **NO RETALIATION.**—The foreign labor recruiter shall agree to refrain from intimidating, threatening, restraining, coercing, discharging, blacklisting or in any other manner discriminating or retaliating against any worker or their family members (including a former worker or an applicant for employment) because such worker disclosed information to any person based on a reason to believe that the foreign labor recruiter, or any agent or subcontractor of such foreign labor recruiter, is engaging or has engaged in a foreign labor recruiting activity that does not comply with this subtitle.

(7) **EMPLOYEES, AGENTS, AND SUBCONTRACTORS.**—The foreign labor recruiter shall consent to be liable for the conduct of any agents or subcontractors of any level in relation to the foreign labor recruiting activity of the agent or subcontractor to the same extent as if the foreign labor recruiter had engaged in such conduct.

(8) **ENFORCEMENT.**—If the foreign labor recruiter is conducting foreign labor recruiting activity wholly outside the United States, such foreign labor recruiter shall establish a registered agent in the United States who is authorized to accept service of process on behalf of the foreign labor recruiter for the purpose of any administrative proceeding under this title or any Federal court civil action, if such service is made in accordance with the appropriate Federal rules for service of process.

(d) **TERM OF REGISTRATION.**—Unless suspended or revoked, a registration under this section shall be valid for 2 years.

(e) **APPLICATION FEE.**—The Secretary shall require a foreign labor recruiter that submits an application for registration under this section to

pay a reasonable fee, sufficient to cover the full costs of carrying out the registration activities under this subtitle.

(f) **NOTIFICATION.**—

(1) **EMPLOYER NOTIFICATION.**—

(A) **IN GENERAL.**—Not less frequently than once every year, an employer of H-2A workers shall provide the Secretary with the names and addresses of all foreign labor recruiters engaged to perform foreign labor recruiting activity on behalf of the employer, whether the foreign labor recruiter is to receive any economic compensation for such services, and, if so, the identity of the person or entity who is paying for the services.

(B) **AGREEMENT TO COOPERATE.**—In addition to the requirements of subparagraph (A), the employer shall—

(i) provide to the Secretary the identity of any foreign labor recruiter whom the employer has reason to believe is engaging in foreign labor recruiting activities that do not comply with this subtitle; and

(ii) promptly respond to any request by the Secretary for information regarding the identity of a foreign labor recruiter with whom the employer has a contract or other agreement.

(2) **FOREIGN LABOR RECRUITER NOTIFICATION.**—A registered foreign labor recruiter shall notify the Secretary, not less frequently than once every year, of the identity of any subcontractor, agent, or foreign labor recruiter employee involved in any foreign labor recruiting activity for, or on behalf of, the foreign labor recruiter.

(g) **ADDITIONAL RESPONSIBILITIES OF THE SECRETARY OF STATE.**—

(1) **LISTS.**—The Secretary of State, in consultation with the Secretary of Labor shall maintain and make publicly available in written form and on the websites of United States embassies in the official language of that country, and on websites maintained by the Secretary of Labor, regularly updated lists—

(A) of foreign labor recruiters who hold valid registrations under this section, including—

(i) the name and address of the foreign labor recruiter;

(ii) the countries in which such recruiters conduct recruitment;

(iii) the employers for whom recruiting is conducted;

(iv) the occupations that are the subject of recruitment;

(v) the States where recruited workers are employed; and

(vi) the name and address of the registered agent in the United States who is authorized to accept service of process on behalf of the foreign labor recruiter; and

(B) of foreign labor recruiters whose registration the Secretary has revoked.

(2) **PERSONNEL.**—The Secretary of State shall ensure that each United States diplomatic mission is staffed with a person who shall be responsible for receiving information from members of the public regarding potential violations of the requirements applicable to registered foreign labor recruiters and ensuring that such information is conveyed to the Secretary of Labor for evaluation and initiation of an enforcement action, if appropriate.

(3) **VISA APPLICATION PROCEDURES.**—The Secretary shall ensure that consular officers issuing visas to nonimmigrants under section 101(a)(1)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(1)(H)(ii)(a))—

(A) provide to and review with the applicant, in the applicant's language (or a language the applicant understands), a copy of the information and resources pamphlet required by section 202 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1375b);

(B) ensure that the applicant has a copy of the approved job offer or work contract;

(C) note in the visa application file whether the foreign labor recruiter has a valid registration under this section; and

(D) if the foreign labor recruiter holds a valid registration, review and include in the visa application file, the foreign labor recruiter's disclosures required by subsection (c)(3).

(4) **DATA.**—The Secretary of State shall make publicly available online, on an annual basis, data disclosing the gender, country of origin (and State, county, or province, if available), age, wage, level of training, and occupational classification, disaggregated by State, of non-immigrant workers described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act.

## SEC. 252. ENFORCEMENT.

(a) **DENIAL OR REVOCATION OF REGISTRATION.**—

(1) **GROUND FOR DENIAL OR REVOCATION.**—The Secretary shall deny an application for registration, or revoke a registration, if the Secretary determines that the foreign labor recruiter, or any agent or subcontractor of such foreign labor recruiter—

(A) knowingly made a material misrepresentation in the registration application;

(B) materially failed to comply with one or more of the attestations provided under section 251(c); or

(C) is not the real party in interest.

(2) **NOTICE.**—Prior to denying an application for registration or revoking a registration under this subsection, the Secretary shall provide written notice of the intent to deny or revoke the registration to the foreign labor recruiter. Such notice shall—

(A) articulate with specificity all grounds for denial or revocation; and

(B) provide the foreign labor recruiter with not less than 60 days to respond.

(3) **RE-REGISTRATION.**—A foreign labor recruiter whose registration was revoked under subsection (a) may re-register if the foreign labor recruiter demonstrates to the Secretary's satisfaction that the foreign labor recruiter has not violated this subtitle in the 5 years preceding the date an application for registration is filed and has taken sufficient steps to prevent future violations of this subtitle.

(b) **ADMINISTRATIVE ENFORCEMENT.**—

(1) **COMPLAINT PROCESS.**—

(A) **FILING.**—A complaint may be filed with the Secretary of Labor, in accordance with the procedures established under section 251(b)(4) not later than 2 years after the earlier of—

(i) the date of the last action which constituted the conduct that is the subject of the complaint took place; or

(ii) the date on which the aggrieved party had actual knowledge of such conduct.

(B) **DECISION AND PENALTIES.**—If the Secretary of Labor finds, after notice and an opportunity for a hearing, that a foreign labor recruiter failed to comply with any of the requirements of this subtitle, the Secretary of Labor may—

(i) levy a fine against the foreign labor recruiter in an amount not more than—

(I) \$10,000 per violation; and

(II) \$25,000 per violation, upon the third violation;

(ii) order the forfeiture (or partial forfeiture) of the bond and release of as much of the bond as the Secretary determines is necessary for the worker to recover prohibited recruitment fees;

(iii) refuse to issue or renew a registration, or revoke a registration; or

(iv) disqualify the foreign labor recruiter from registration for a period of up to 5 years, or in the case of a subsequent finding involving willful or multiple material violations, permanently disqualify the foreign labor recruiter from registration.

(2) **AUTHORITY TO ENSURE COMPLIANCE.**—The Secretary of Labor is authorized to take other such actions, including issuing subpoenas and seeking appropriate injunctive relief, as may be necessary to assure compliance with the terms and conditions of this subtitle.

(3) **STATUTORY CONSTRUCTION.**—Nothing in this subsection may be construed as limiting the authority of the Secretary of Labor to conduct an investigation—

(A) under any other law, including any law affecting migrant and seasonal agricultural workers; or

(B) in the absence of a complaint.

(C) **CIVIL ACTION.**—

(1) **IN GENERAL.**—The Secretary of Labor or any person aggrieved by a violation of this subtitle may bring a civil action against any foreign labor recruiter, or any employer that does not meet the requirements under subsection (d)(1), in any court of competent jurisdiction—

(A) to seek remedial action, including injunctive relief; and

(B) for damages in accordance with the provisions of this subsection.

(2) **AWARD FOR CIVIL ACTION FILED BY AN INDIVIDUAL.**—

(A) **IN GENERAL.**—If the court finds in a civil action filed by an individual under this section that the defendant has violated any provision of this subtitle, the court may award—

(i) damages, up to and including an amount equal to the amount of actual damages, and statutory damages of up to \$1,000 per plaintiff per violation, or other equitable relief, except that with respect to statutory damages—

(I) multiple infractions of a single provision of this subtitle (or of a regulation under this subtitle) shall constitute only one violation for purposes of this subsection to determine the amount of statutory damages due a plaintiff; and

(II) if such complaint is certified as a class action the court may award—

(aa) damages up to an amount equal to the amount of actual damages; and

(bb) statutory damages of not more than the lesser of up to \$1,000 per class member per violation, or up to \$500,000; and other equitable relief;

(ii) reasonable attorneys' fees and costs; and

(iii) such other and further relief as necessary to effectuate the purposes of this subtitle.

(B) **CRITERIA.**—In determining the amount of statutory damages to be awarded under subparagraph (A), the court is authorized to consider whether an attempt was made to resolve the issues in dispute before the resort to litigation.

(C) **BOND.**—To satisfy the damages, fees, and costs found owing under this paragraph, the Secretary shall release as much of the bond held pursuant to section 251(c)(4) as necessary.

(3) **SUMS RECOVERED IN ACTIONS BY THE SECRETARY OF LABOR.**—

(A) **ESTABLISHMENT OF ACCOUNT.**—There is established in the general fund of the Treasury a separate account, which shall be known as the "H-2A Foreign Labor Recruiter Compensation Account". Notwithstanding any other provisions of law, there shall be deposited as offsetting receipts into the account, all sums recovered in an action by the Secretary of Labor under this subsection.

(B) **USE OF FUNDS.**—Amounts deposited into the H-2A Foreign Labor Recruiter Compensation Account and shall be paid directly to each worker affected. Any such sums not paid to a worker because of inability to do so within a period of 5 years following the date such funds are deposited into the account shall remain available to the Secretary until expended. The Secretary may transfer all or a portion of such remaining sums to appropriate agencies to support the enforcement of the laws prohibiting the trafficking and exploitation of persons or programs that aid trafficking victims.

(d) **EMPLOYER SAFE HARBOR.**—

(1) **IN GENERAL.**—An employer that hires workers referred by a foreign labor recruiter with a valid registration at the time of hiring shall not be held jointly liable for a violation committed solely by a foreign labor recruiter under this subtitle—

(A) in any administrative action initiated by the Secretary concerning such violation; or

(B) in any Federal or State civil court action filed against the foreign labor recruiter by or on behalf of such workers or other aggrieved party under this subtitle.

(2) **CLARIFICATION.**—Nothing in this subtitle shall be construed to prohibit an aggrieved party or parties from bringing a civil action for violations of this subtitle or any other Federal or State law against any employer who hired workers referred by a foreign labor recruiter—

(A) without a valid registration at the time of hire; or

(B) with a valid registration if the employer knew or learned of the violation and failed to report such violation to the Secretary.

(e) **PAROLE TO PURSUE RELIEF.**—If other immigration relief is not available, the Secretary of Homeland Security may grant parole to permit an individual to remain legally in the United States for time sufficient to fully and effectively participate in all legal proceedings related to any action taken pursuant to subsection (b) or (c).

(f) **WAIVER OF RIGHTS.**—Agreements by employees purporting to waive or to modify their rights under this subtitle shall be void as contrary to public policy.

(g) **LIABILITY FOR AGENTS.**—Foreign labor recruiters shall be subject to the provisions of this section for violations committed by the foreign labor recruiter's agents or subcontractors of any level in relation to their foreign labor recruiting activity to the same extent as if the foreign labor recruiter had committed the violation.

#### **SEC. 253. APPROPRIATIONS.**

There is authorized to be appropriated such sums as may be necessary for the Secretary of Labor and Secretary of State to carry out the provisions of this subtitle.

#### **SEC. 254. DEFINITIONS.**

For purposes of this subtitle:

(1) **FOREIGN LABOR RECRUITER.**—The term "foreign labor recruiter" means any person who performs foreign labor recruiting activity in exchange for money or other valuable consideration paid or promised to be paid, to recruit individuals to work as nonimmigrant workers described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)), including any person who performs foreign labor recruiting activity wholly outside of the United States. Such term does not include any entity of the United States Government or an employer, or employee of an employer, who engages in foreign labor recruiting activity solely to find employees for that employer's own use, and without the participation of any other foreign labor recruiter.

(2) **FOREIGN LABOR RECRUITING ACTIVITY.**—The term "foreign labor recruiting activity" means recruiting, soliciting, or related activities with respect to an individual who resides outside of the United States in furtherance of employment in the United States, including when such activity occurs wholly outside of the United States.

(3) **RECRUITMENT FEES.**—The term "recruitment fees" has the meaning given to such term under section 22.1702 of title 22 of the Code of Federal Regulations, as in effect on the date of enactment of this Act.

(4) **PERSON.**—The term "person" means any natural person or any corporation, company, firm, partnership, joint stock company or association or other organization or entity (whether organized under law or not), including municipal corporations.

### **TITLE III—ELECTRONIC VERIFICATION OF EMPLOYMENT ELIGIBILITY**

#### **SEC. 301. ELECTRONIC EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.**

(a) **IN GENERAL.**—Chapter 8 of title II of the Immigration and Nationality Act (8 U.S.C. 1321 et seq.) is amended by inserting after section 274D the following:

#### **"SEC. 274E. REQUIREMENTS FOR THE ELECTRONIC VERIFICATION OF EMPLOYMENT ELIGIBILITY.**

**"(a) EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.**—

**"(1) IN GENERAL.**—The Secretary of Homeland Security (referred to in this section as the 'Secretary') shall establish and administer an electronic verification system (referred to in this section as the 'System'), patterned on the E-Verify Program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) (as in effect on the day before the effective date described in section 303(a)(4) of the Farm Workforce Modernization Act of 2021), and using the employment eligibility confirmation system established under section 404 of such Act (8 U.S.C. 1324a note) (as so in effect) as a foundation, through which the Secretary shall—

**"(A)** respond to inquiries made by persons or entities seeking to verify the identity and employment authorization of individuals that such persons or entities seek to hire, or to recruit or refer for a fee, for employment in the United States; and

**"(B)** maintain records of the inquiries that were made, and of verifications provided (or not provided) to such persons or entities as evidence of compliance with the requirements of this section.

**"(2) INITIAL RESPONSE DEADLINE.**—The System shall provide confirmation or a tentative nonconfirmation of an individual's identity and employment authorization as soon as practicable, but not later than 3 calendar days after the initial inquiry.

**"(3) GENERAL DESIGN AND OPERATION OF SYSTEM.**—The Secretary shall design and operate the System—

**"(A)** using responsive web design and other technologies to maximize its ease of use and accessibility for users on a variety of electronic devices and screen sizes, and in remote locations;

**"(B)** to maximize the accuracy of responses to inquiries submitted by persons or entities;

**"(C)** to maximize the reliability of the System and to register each instance when the System is unable to receive inquiries;

**"(D)** to protect the privacy and security of the personally identifiable information maintained by or submitted to the System;

**"(E)** to provide direct notification of an inquiry to an individual with respect to whom the inquiry is made, including the results of such inquiry, and information related to the process for challenging the results, in cases in which the individual has established a user account as described in paragraph (4)(B) or an electronic mail address for the individual is submitted by the person or entity at the time the inquiry is made; and

**"(F)** to maintain appropriate administrative, technical, and physical safeguards to prevent misuse of the System and unfair immigration-related employment practices.

**"(4) MEASURES TO PREVENT IDENTITY THEFT AND OTHER FORMS OF FRAUD.**—To prevent identity theft and other forms of fraud, the Secretary shall design and operate the System with the following attributes:

**"(A) PHOTO MATCHING TOOL.**—The System shall display the digital photograph of the individual, if any, that corresponds to the document presented by an individual to establish identity and employment authorization so that the person or entity that makes an inquiry can compare the photograph displayed by the System to the photograph on the document presented by the individual.

**"(B) INDIVIDUAL MONITORING AND SUSPENSION OF IDENTIFYING INFORMATION.**—The System shall enable individuals to establish user accounts, after authentication of an individual's identity, that would allow an individual to—

**"(i)** confirm the individual's own employment authorization;

**"(ii)** receive electronic notification when the individual's social security account number or

other personally identifying information has been submitted to the System;

“(iii) monitor the use history of the individual’s personally identifying information in the System, including the identities of all persons or entities that have submitted such identifying information to the System, the date of each query run, and the System response for each query run;

“(iv) suspend or limit the use of the individual’s social security account number or other personally identifying information for purposes of the System; and

“(v) provide notice to the Department of Homeland Security of any suspected identity fraud or other improper use of personally identifying information.

“(C) BLOCKING MISUSED SOCIAL SECURITY ACCOUNT NUMBERS.—

“(i) IN GENERAL.—The Secretary, in consultation with the Commissioner of Social Security (referred to in this section as the ‘Commissioner’), shall develop, after publication in the Federal Register and an opportunity for public comment, a process in which social security account numbers that have been identified to be subject to unusual multiple use in the System or that are otherwise suspected or determined to have been compromised by identity fraud or other misuse, shall be blocked from use in the System unless the individual using such number is able to establish, through secure and fair procedures, that the individual is the legitimate holder of the number.

“(ii) NOTICE.—If the Secretary blocks or suspends a social security account number under this subparagraph, the Secretary shall provide notice to the persons or entities that have made inquiries to the System using such account number that the identity and employment authorization of the individual who provided such account number must be re-verified.

“(D) ADDITIONAL IDENTITY AUTHENTICATION TOOL.—The Secretary shall develop, after publication in the Federal Register and an opportunity for public comment, additional security measures to adequately verify the identity of an individual whose identity may not be verified using the photo tool described in subparagraph (A). Such additional security measures—

“(i) shall be kept up-to-date with technological advances; and

“(ii) shall be designed to provide a high level of certainty with respect to identity authentication.

“(E) CHILD-LOCK PILOT PROGRAM.—The Secretary, in consultation with the Commissioner, shall establish a reliable, secure program through which parents or legal guardians may suspend or limit the use of the social security account number or other personally identifying information of a minor under their care for purposes of the System. The Secretary may implement the program on a limited pilot basis before making it fully available to all individuals.

“(5) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—The Commissioner, in consultation with the Secretary, shall establish a reliable, secure method, which, within the time periods specified in paragraph (2) and subsection (b)(4)(D)(i)(II), compares the name and social security account number provided in an inquiry against such information maintained by the Commissioner in order to validate (or not validate) the information provided by the person or entity with respect to an individual whose identity and employment authorization the person or entity seeks to confirm, the correspondence of the name and number, and whether the individual has presented a social security account number that is not valid for employment. The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation) under the System except as provided under this section.

“(6) RESPONSIBILITIES OF THE SECRETARY OF HOMELAND SECURITY.—

“(A) IN GENERAL.—The Secretary of Homeland Security shall establish a reliable, secure meth-

od, which, within the time periods specified in paragraph (2) and subsection (b)(4)(D)(i)(II), compares the name and identification or other authorization number (or any other information determined relevant by the Secretary) which are provided in an inquiry against such information maintained or accessed by the Secretary in order to validate (or not validate) the information provided, the correspondence of the name and number, and whether the individual is authorized to be employed in the United States.

“(B) TRAINING.—The Secretary shall provide and regularly update training materials on the use of the System for persons and entities making inquiries.

“(C) AUDIT.—The Secretary shall provide for periodic auditing of the System to detect and prevent misuse, discrimination, fraud, and identity theft, to protect privacy and assess System accuracy, and to preserve the integrity and security of the information in the System.

“(D) NOTICE OF SYSTEM CHANGES.—The Secretary shall provide appropriate notification to persons and entities registered in the System of any change made by the Secretary or the Commissioner related to permitted and prohibited documents, and use of the System.

“(7) RESPONSIBILITIES OF THE SECRETARY OF STATE.—As part of the System, the Secretary of State shall provide to the Secretary of Homeland Security access to passport and visa information as needed to confirm that a passport or passport card presented under subsection (b)(3)(A)(i) confirms the employment authorization and identity of the individual presenting such document, and that a passport, passport card, or visa photograph matches the Secretary of State’s records, and shall provide such assistance as the Secretary of Homeland Security may request in order to resolve tentative nonconfirmations or final nonconfirmations relating to such information.

“(8) UPDATING INFORMATION.—The Commissioner, the Secretary of Homeland Security, and the Secretary of State shall update records in their custody in a manner that promotes maximum accuracy of the System and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention through the tentative nonconfirmation review process under subsection (b)(4)(D).

“(9) MANDATORY AND VOLUNTARY SYSTEM USES.—

“(A) MANDATORY USERS.—Except as otherwise provided under Federal or State law, such as sections 302 and 303 of the Farm Workforce Modernization Act of 2021, nothing in this section shall be construed as requiring the use of the System by any person or entity hiring, recruiting, or referring for a fee, an individual for employment in the United States.

“(B) VOLUNTARY USERS.—Beginning after the date that is 30 days after the date on which final rules are published under section 309(a) of the Farm Workforce Modernization Act of 2021, a person or entity may use the System on a voluntary basis to seek verification of the identity and employment authorization of individuals the person or entity is hiring, recruiting, or referring for a fee for employment in the United States.

“(C) PROCESS FOR NON-USERS.—The employment verification process for any person or entity hiring, recruiting, or referring for a fee, an individual for employment in the United States shall be governed by section 274A(b) unless the person or entity—

“(i) is required by Federal or State law to use the System; or

“(ii) has opted to use the System voluntarily in accordance with subparagraph (B).

“(10) NO FEE FOR USE.—The Secretary may not charge a fee to an individual, person, or entity related to the use of the System.

“(b) NEW HIRES, RECRUITMENT, AND REFERRAL.—Notwithstanding section 274A(b), the requirements referred to in paragraphs (1)(B) and

(3) of section 274A(a) are, in the case of a person or entity that uses the System for the hiring, recruiting, or referring for a fee, an individual for employment in the United States, the following:

“(1) INDIVIDUAL ATTESTATION OF EMPLOYMENT AUTHORIZATION.—During the period beginning on the date on which an offer of employment is accepted and ending on the date of hire, the individual shall attest, under penalty of perjury on a form designated by the Secretary, that the individual is authorized to be employed in the United States by providing on such form—

“(A) the individual’s name and date of birth;

“(B) the individual’s social security account number (unless the individual has applied for and not yet been issued such a number);

“(C) whether the individual is—

“(i) a citizen or national of the United States;

“(ii) an alien lawfully admitted for permanent residence; or

“(iii) an alien who is otherwise authorized by the Secretary to be hired, recruited, or referred for employment in the United States; and

“(D) if the individual does not attest to United States citizenship or nationality, such identification or other authorization number established by the Department of Homeland Security for the alien as the Secretary may specify.

“(2) EMPLOYER ATTESTATION AFTER EXAMINATION OF DOCUMENTS.—Not later than 3 business days after the date of hire, the person or entity shall attest, under penalty of perjury on the form designated by the Secretary for purposes of paragraph (1), that it has verified that the individual is not an unauthorized alien by—

“(A) obtaining from the individual the information described in paragraph (1) and recording such information on the form;

“(B) examining—

“(i) a document described in paragraph (3)(A); or

“(ii) a document described in paragraph (3)(B) and a document described in paragraph (3)(C); and

“(C) attesting that the information recorded on the form is consistent with the documents examined.

“(3) ACCEPTABLE DOCUMENTS.—

“(A) DOCUMENTS ESTABLISHING EMPLOYMENT AUTHORIZATION AND IDENTITY.—A document described in this subparagraph is an individual’s—

“(i) United States passport or passport card;

“(ii) permanent resident card that contains a photograph;

“(iii) foreign passport containing temporary evidence of lawful permanent residence in the form of an official I-551 (or successor) stamp from the Department of Homeland Security or a printed notation on a machine-readable immigrant visa;

“(iv) unexpired employment authorization card that contains a photograph;

“(v) in the case of a nonimmigrant alien authorized to engage in employment for a specific employer incident to status, a foreign passport with Form I-94, Form I-94A, or other documentation as designated by the Secretary specifying the alien’s nonimmigrant status as long as such status has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified in the documentation;

“(vi) passport from the Federated States of Micronesia or the Republic of the Marshall Islands with Form I-94, Form I-94A, or other documentation as designated by the Secretary, indicating nonimmigrant admission under the Compact of Free Association Between the United States and the Federated States of Micronesia or the Republic of the Marshall Islands; or

“(vii) other document designated by the Secretary, by notice published in the Federal Register, if the document—

“(I) contains a photograph of the individual, biometric identification data, and other personal identifying information relating to the individual;

“(II) is evidence of authorization for employment in the United States; and

“(III) contains security features to make it resistant to tampering, counterfeiting, and fraudulent use.

“(B) DOCUMENTS ESTABLISHING EMPLOYMENT AUTHORIZATION.—A document described in this subparagraph is—

“(i) an individual’s social security account number card (other than such a card which specifies on the face that the issuance of the card does not authorize employment in the United States); or

“(ii) a document establishing employment authorization that the Secretary determines, by notice published in the Federal Register, to be acceptable for purposes of this subparagraph, provided that such documentation contains security features to make it resistant to tampering, counterfeiting, and fraudulent use.

“(C) DOCUMENTS ESTABLISHING IDENTITY.—A document described in this subparagraph is—

“(i) an individual’s driver’s license or identification card if it was issued by a State or one of the outlying possessions of the United States and contains a photograph and personal identifying information relating to the individual;

“(ii) an individual’s unexpired United States military identification card;

“(iii) an individual’s unexpired Native American tribal identification document issued by a tribal entity recognized by the Bureau of Indian Affairs;

“(iv) in the case of an individual under 18 years of age, a parent or legal guardian’s attestation under penalty of law as to the identity and age of the individual; or

“(v) a document establishing identity that the Secretary determines, by notice published in the Federal Register, to be acceptable for purposes of this subparagraph, if such documentation contains a photograph of the individual, biometric identification data, and other personal identifying information relating to the individual, and security features to make it resistant to tampering, counterfeiting, and fraudulent use.

“(D) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Secretary finds that any document or class of documents described in subparagraph (A), (B), or (C) does not reliably establish identity or employment authorization or is being used fraudulently to an unacceptable degree, the Secretary may, by notice published in the Federal Register, prohibit or place conditions on the use of such document or class of documents for purposes of this section.

“(4) USE OF THE SYSTEM TO SCREEN IDENTITY AND EMPLOYMENT AUTHORIZATION.—

“(A) IN GENERAL.—In the case of a person or entity that uses the System for the hiring, recruiting, or referring for a fee an individual for employment in the United States, during the period described in subparagraph (B), the person or entity shall submit an inquiry through the System described in subsection (a) to seek verification of the identity and employment authorization of the individual.

“(B) VERIFICATION PERIOD.—

“(i) IN GENERAL.—Except as provided in clause (ii), and subject to subsection (d), the verification period shall begin on the date of hire and end on the date that is 3 business days after the date of hire, or such other reasonable period as the Secretary may prescribe.

“(ii) SPECIAL RULE.—In the case of an alien who is authorized to be employed in the United States and who provides evidence from the Social Security Administration that the alien has applied for a social security account number, the verification period shall end 3 business days after the alien receives the social security account number.

“(C) CONFIRMATION.—If a person or entity receives confirmation of an individual’s identity and employment authorization, the person or entity shall record such confirmation on the form designated by the Secretary for purposes of paragraph (1).

“(D) TENTATIVE NONCONFIRMATION.—

“(i) IN GENERAL.—In cases of tentative nonconfirmation, the Secretary shall provide, in consultation with the Commissioner, a process for—

“(I) an individual to contest the tentative nonconfirmation not later than 10 business days after the date of the receipt of the notice described in clause (ii); and

“(II) the Secretary to issue a confirmation or final nonconfirmation of an individual’s identity and employment authorization not later than 30 calendar days after the Secretary receives notice from the individual contesting a tentative nonconfirmation.

“(ii) NOTICE.—If a person or entity receives a tentative nonconfirmation of an individual’s identity or employment authorization, the person or entity shall, not later than 3 business days after receipt, notify such individual in writing in a language understood by the individual and on a form designated by the Secretary, that shall include a description of the individual’s right to contest the tentative nonconfirmation. The person or entity shall attest, under penalty of perjury, that the person or entity provided (or attempted to provide) such notice to the individual, and the individual shall acknowledge receipt of such notice in a manner specified by the Secretary.

“(iii) NO CONTEST.—

“(I) IN GENERAL.—A tentative nonconfirmation shall become final if, upon receiving the notice described in clause (ii), the individual—

“(aa) refuses to acknowledge receipt of such notice;

“(bb) acknowledges in writing, in a manner specified by the Secretary, that the individual will not contest the tentative nonconfirmation; or

“(cc) fails to contest the tentative nonconfirmation within the 10-business-day period beginning on the date the individual received such notice.

“(II) RECORD OF NO CONTEST.—The person or entity shall indicate in the System that the individual did not contest the tentative nonconfirmation and shall specify the reason the tentative nonconfirmation became final under subclause (I).

“(III) EFFECT OF FAILURE TO CONTEST.—An individual’s failure to contest a tentative nonconfirmation shall not be considered an admission of any fact with respect to any violation of this Act or any other provision of law.

“(iv) CONTEST.—

“(I) IN GENERAL.—An individual may contest a tentative nonconfirmation by using the tentative nonconfirmation review process under clause (i), not later than 10 business days after receiving the notice described in clause (ii). Except as provided in clause (iii), the nonconfirmation shall remain tentative until a confirmation or final nonconfirmation is provided by the System.

“(II) PROHIBITION ON TERMINATION.—In no case shall a person or entity terminate employment or take any adverse employment action against an individual for failure to obtain confirmation of the individual’s identity and employment authorization until the person or entity receives a notice of final nonconfirmation from the System. Nothing in this subclause shall prohibit an employer from terminating the employment of the individual for any other lawful reason.

“(III) CONFIRMATION OR FINAL NONCONFIRMATION.—The Secretary, in consultation with the Commissioner, shall issue notice of a confirmation or final nonconfirmation of the individual’s identity and employment authorization not later than 30 calendar days after the date the Secretary receives notice from the individual contesting the tentative nonconfirmation.

“(E) FINAL NONCONFIRMATION.—

“(i) NOTICE.—If a person or entity receives a final nonconfirmation of an individual’s identity or employment authorization, the person or

entity shall, not later than 3 business days after receipt, notify such individual of the final nonconfirmation in writing, on a form designated by the Secretary, which shall include information regarding the individual’s right to appeal the final nonconfirmation as provided under subparagraph (F). The person or entity shall attest, under penalty of perjury, that the person or entity provided (or attempted to provide) the notice to the individual, and the individual shall acknowledge receipt of such notice in a manner designated by the Secretary.

“(ii) TERMINATION OR NOTIFICATION OF CONTINUED EMPLOYMENT.—If a person or entity receives a final nonconfirmation regarding an individual, the person or entity may terminate employment of the individual. If the person or entity does not terminate such employment pending appeal of the final nonconfirmation, the person or entity shall notify the Secretary of such fact through the System. Failure to notify the Secretary in accordance with this clause shall be deemed a violation of section 274A(a)(1)(A).

“(iii) PRESUMPTION OF VIOLATION FOR CONTINUED EMPLOYMENT.—If a person or entity continues to employ an individual after receipt of a final nonconfirmation, there shall be a rebuttable presumption that the person or entity has violated paragraphs (1)(A) and (a)(2) of section 274A(a).

“(F) APPEAL OF FINAL NONCONFIRMATION.—

“(i) ADMINISTRATIVE APPEAL.—The Secretary, in consultation with the Commissioner, shall develop a process by which an individual may seek administrative review of a final nonconfirmation. Such process shall—

“(I) permit the individual to submit additional evidence establishing identity or employment authorization;

“(II) ensure prompt resolution of an appeal (but in no event shall there be a failure to respond to an appeal within 30 days); and

“(III) permit the Secretary to impose a civil money penalty (not to exceed \$500) on an individual upon finding that an appeal was frivolous or filed for purposes of delay.

“(ii) COMPENSATION FOR LOST WAGES RESULTING FROM GOVERNMENT ERROR OR OMISSION.—

“(I) IN GENERAL.—If, upon consideration of an appeal of a final nonconfirmation, the Secretary determines that the final nonconfirmation was issued in error, the Secretary shall further determine whether the final nonconfirmation was the result of government error or omission. If the Secretary determines that the final nonconfirmation was solely the result of government error or omission and the individual was terminated from employment, the Secretary shall compensate the individual for lost wages.

“(II) CALCULATION OF LOST WAGES.—Lost wages shall be calculated based on the wage rate and work schedule that were in effect prior to the individual’s termination. The individual shall be compensated for lost wages beginning on the first scheduled work day after employment was terminated and ending 90 days after completion of the administrative review process described in this subparagraph or the day the individual is reinstated or obtains other employment, whichever occurs first.

“(III) LIMITATION ON COMPENSATION.—No compensation for lost wages shall be awarded for any period during which the individual was not authorized for employment in the United States.

“(IV) SOURCE OF FUNDS.—There is established in the general fund of the Treasury, a separate account which shall be known as the ‘Electronic Verification Compensation Account’. Fees collected under subsections (f) and (g) shall be deposited in the Electronic Verification Compensation Account and shall remain available for purposes of providing compensation for lost wages under this subclause.

“(iii) JUDICIAL REVIEW.—Not later than 30 days after the dismissal of an appeal under this subparagraph, an individual may seek judicial

review of such dismissal in the United States District Court in the jurisdiction in which the employer resides or conducts business.

“(5) RETENTION OF VERIFICATION RECORDS.—

“(A) IN GENERAL.—After completing the form designated by the Secretary in accordance with paragraphs (1) and (2), the person or entity shall retain the form in paper, microfiche, microfilm, electronic, or other format deemed acceptable by the Secretary, and make it available for inspection by officers of the Department of Homeland Security, the Department of Justice, or the Department of Labor during the period beginning on the date the verification is completed and ending on the later of—

“(i) the date that is 3 years after the date of hire; or

“(ii) the date that is 1 year after the date on which the individual's employment is terminated.

“(B) COPYING OF DOCUMENTATION PERMITTED.—Notwithstanding any other provision of law, a person or entity may copy a document presented by an individual pursuant to this section and may retain the copy, but only for the purpose of complying with the requirements of this section.

“(C) REVERIFICATION OF PREVIOUSLY HIRED INDIVIDUALS.—

“(1) MANDATORY REVERIFICATION.—In the case of a person or entity that uses the System for the hiring, recruiting, or referring for a fee an individual for employment in the United States, the person or entity shall submit an inquiry using the System to verify the identity and employment authorization of—

“(A) an individual with a limited period of employment authorization, within 3 business days before the date on which such employment authorization expires; and

“(B) an individual, not later than 10 days after receiving a notification from the Secretary requiring the verification of such individual pursuant to subsection (a)(4)(C).

“(2) REVERIFICATION PROCEDURES.—The verification procedures under subsection (b) shall apply to reverifications under this subsection, except that employers shall—

“(A) use a form designated by the Secretary for purposes of this paragraph; and

“(B) retain the form in paper, microfiche, microfilm, electronic, or other format deemed acceptable by the Secretary, and make it available for inspection by officers of the Department of Homeland Security, the Department of Justice, or the Department of Labor during the period beginning on the date the reverification commences and ending on the later of—

“(i) the date that is 3 years after the date of reverification; or

“(ii) the date that is 1 year after the date on which the individual's employment is terminated.

“(3) LIMITATION ON REVERIFICATION.—Except as provided in paragraph (1), a person or entity may not otherwise reverify the identity and employment authorization of a current employee, including an employee continuing in employment.

“(d) GOOD FAITH COMPLIANCE.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, a person or entity that uses the System is considered to have complied with the requirements of this section notwithstanding a technical failure of the System, or other technical or procedural failure to meet such requirement if there was a good faith attempt to comply with the requirement.

“(2) EXCEPTION FOR FAILURE TO CORRECT AFTER NOTICE.—Paragraph (1) shall not apply if—

“(A) the failure is not de minimis;

“(B) the Secretary has provided notice to the person or entity of the failure, including an explanation as to why it is not de minimis;

“(C) the person or entity has been provided a period of not less than 30 days (beginning after the date of the notice) to correct the failure; and

“(D) the person or entity has not corrected the failure voluntarily within such period.

“(3) EXCEPTION FOR PATTERN OR PRACTICE VIOLATORS.—Paragraph (1) shall not apply to a person or entity that has engaged or is engaging in a pattern or practice of violations of paragraph (1)(A) or (2) of section 274A(a).

“(4) DEFENSE.—In the case of a person or entity that uses the System for the hiring, recruiting, or referring for a fee an individual for employment in the United States, the person or entity shall not be liable to a job applicant, an employee, the Federal Government, or a State or local government, under Federal, State, or local criminal or civil law, for any employment-related action taken with respect to an employee in good-faith reliance on information provided by the System. Such person or entity shall be deemed to have established compliance with its obligations under this section, absent a showing by the Secretary, by clear and convincing evidence, that the employer had knowledge that an employee is an unauthorized alien.

“(e) LIMITATIONS.—

“(1) NO NATIONAL IDENTIFICATION CARD.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

“(2) USE OF RECORDS.—Notwithstanding any other provision of law, nothing in this section shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, database, or other records assembled under this section for any purpose other than the verification of identity and employment authorization of an individual or to ensure the secure, appropriate, and non-discriminatory use of the System.

“(f) PENALTIES.—

“(1) IN GENERAL.—Except as provided in this subsection, the provisions of subsections (e) through (g) of section 274A shall apply with respect to compliance with the provisions of this section and penalties for non-compliance for persons or entities that use the System.

“(2) CEASE AND DESIST ORDER WITH CIVIL MONEY PENALTIES FOR HIRING, RECRUITING, AND REFERRAL VIOLATIONS.—Notwithstanding the civil money penalties set forth in section 274A(e)(4), with respect to a violation of paragraph (1)(A) or (2) of section 274A(a) by a person or entity that has hired, recruited, or referred for a fee, an individual for employment in the United States, a cease and desist order—

“(A) shall require the person or entity to pay a civil penalty in an amount, subject to subsection (d), of—

“(i) not less than \$2,500 and not more than \$5,000 for each unauthorized alien with respect to whom a violation of either such subsection occurred;

“(ii) not less than \$5,000 and not more than \$10,000 for each such alien in the case of a person or entity previously subject to one order under this paragraph; or

“(iii) not less than \$10,000 and not more than \$25,000 for each such alien in the case of a person or entity previously subject to more than one order under this paragraph; and

“(B) may require the person or entity to take such other remedial action as appropriate.

“(3) ORDER FOR CIVIL MONEY PENALTY FOR VIOLATIONS.—With respect to a violation of section 274A(a)(1)(B), the order under this paragraph shall require the person or entity to pay a civil penalty in an amount, subject to paragraphs (4), (5), and (6), of not less than \$1,000 and not more than \$25,000 for each individual with respect to whom such violation occurred. Failure by a person or entity to utilize the System as required by law or providing information to the System that the person or entity knows or reasonably believes to be false, shall be treated as a violation of section 274A(a)(1)(A).

“(4) EXEMPTION FROM PENALTY FOR GOOD FAITH VIOLATION.—

“(A) IN GENERAL.—A person or entity that uses the System is presumed to have acted with knowledge for purposes of paragraphs (1)(A) and (2) of section 274A(a) if the person or entity fails to make an inquiry to verify the identity and employment authorization of the individual through the System.

“(B) GOOD FAITH EXEMPTION.—In the case of imposition of a civil penalty under paragraph (2)(A) with respect to a violation of paragraph (1)(A) or (2) of section 274A(a) for hiring or continuation of employment or recruitment or referral by a person or entity, and in the case of imposition of a civil penalty under paragraph (3) for a violation of section 274A(a)(1)(B) for hiring or recruitment or referral by a person or entity, the penalty otherwise imposed may be waived or reduced if the person or entity establishes that the person or entity acted in good faith.

“(5) MITIGATION ELEMENTS.—For purposes of paragraphs (2)(A) and (3), when assessing the level of civil money penalties, in addition to the good faith of the person or entity being charged, due consideration shall be given to the size of the business, the seriousness of the violation, whether or not the individual was an unauthorized alien, and the history of previous violations.

“(6) CRIMINAL PENALTY.—Notwithstanding section 274A(f)(1) and the provisions of any other Federal law relating to fine levels, any person or entity that is required to comply with the provisions of this section and that engages in a pattern or practice of violations of paragraph (1) or (2) of section 274A(a), shall be fined not more than \$5,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned for not more than 18 months, or both.

“(7) ELECTRONIC VERIFICATION COMPENSATION ACCOUNT.—Civil money penalties collected under this subsection shall be deposited in the Electronic Verification Compensation Account for the purpose of compensating individuals for lost wages as a result of a final nonconfirmation issued by the System that was based on government error or omission, as set forth in subsection (b)(4)(F)(ii)(IV).

“(8) DEBARMENT.—

“(A) IN GENERAL.—If a person or entity is determined by the Secretary to be a repeat violator of paragraph (1)(A) or (2) of section 274A(a) or is convicted of a crime under section 274A, such person or entity may be considered for debarment from the receipt of Federal contracts, grants, or cooperative agreements in accordance with the debarment standards and pursuant to the debarment procedures set forth in the Federal Acquisition Regulation.

“(B) NO CONTRACT, GRANT, AGREEMENT.—If the Secretary or the Attorney General wishes to have a person or entity considered for debarment in accordance with this paragraph, and such a person or entity does not hold a Federal contract, grant or cooperative agreement, the Secretary or Attorney General shall refer the matter to the Administrator of General Services to determine whether to list the person or entity on the List of Parties Excluded from Federal Procurement, and if so, for what duration and under what scope.

“(C) CONTRACT, GRANT, AGREEMENT.—If the Secretary or the Attorney General wishes to have a person or entity considered for debarment in accordance with this paragraph, and such person or entity holds a Federal contract, grant, or cooperative agreement, the Secretary or Attorney General shall advise all agencies or departments holding a contract, grant, or cooperative agreement with the person or entity of the Government's interest in having the person or entity considered for debarment, and after soliciting and considering the views of all such agencies and departments, the Secretary or Attorney General may refer the matter to the appropriate lead agency to determine whether to list the person or entity on the List of Parties



Excluded from Federal Procurement, and if so, for what duration and under what scope.

“(D) REVIEW.—Any decision to debar a person or entity in accordance with this subsection shall be reviewable pursuant to part 9.4 of the Federal Acquisition Regulation.

“(9) PREEMPTION.—The provisions of this section preempt any State or local law, ordinance, policy, or rule, including any criminal or civil fine or penalty structure, relating to the hiring, continued employment, or status verification for employment eligibility purposes, of unauthorized aliens, except that a State, locality, municipality, or political subdivision may exercise its authority over business licensing and similar laws as a penalty for failure to use the System as required under this section.

“(g) UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES AND THE SYSTEM.—

“(1) IN GENERAL.—In addition to the prohibitions on discrimination set forth in section 274B, it is an unfair immigration-related employment practice for a person or entity, in the course of utilizing the System—

“(A) to use the System for screening an applicant prior to the date of hire;

“(B) to terminate the employment of an individual or take any adverse employment action with respect to that individual due to a tentative nonconfirmation issued by the System;

“(C) to use the System to screen any individual for any purpose other than confirmation of identity and employment authorization as provided in this section;

“(D) to use the System to verify the identity and employment authorization of a current employee, including an employee continuing in employment, other than reverification authorized under subsection (c);

“(E) to use the System to discriminate based on national origin or citizenship status;

“(F) to willfully fail to provide an individual with any notice required under this title;

“(G) to require an individual to make an inquiry under the self-verification procedures described in subsection (a)(4)(B) or to provide the results of such an inquiry as a condition of employment, or hiring, recruiting, or referring; or

“(H) to terminate the employment of an individual or take any adverse employment action with respect to that individual based upon the need to verify the identity and employment authorization of the individual as required by subsection (b).

“(2) PREEMPLOYMENT SCREENING AND BACKGROUND CHECK.—Nothing in paragraph (1)(A) shall be construed to preclude a preemployment screening or background check that is required or permitted under any other provision of law.

“(3) CIVIL MONEY PENALTIES FOR DISCRIMINATORY CONDUCT.—Notwithstanding section 274B(g)(2)(B)(iv), the penalties that may be imposed by an administrative law judge with respect to a finding that a person or entity has engaged in an unfair immigration-related employment practice described in paragraph (1) are—

“(A) not less than \$1,000 and not more than \$4,000 for each individual discriminated against;

“(B) in the case of a person or entity previously subject to a single order under this paragraph, not less than \$4,000 and not more than \$10,000 for each individual discriminated against; and

“(C) in the case of a person or entity previously subject to more than one order under this paragraph, not less than \$6,000 and not more than \$20,000 for each individual discriminated against.

“(4) ELECTRONIC VERIFICATION COMPENSATION ACCOUNT.—Civil money penalties collected under this subsection shall be deposited in the Electronic Verification Compensation Account for the purpose of compensating individuals for lost wages as a result of a final nonconfirmation issued by the System that was based on government error or omission, as set forth in subsection (b)(4)(F)(ii)(IV).

“(h) CLARIFICATION.—All rights and remedies provided under any Federal, State, or local law relating to workplace rights, including but not limited to back pay, are available to an employee despite—

“(1) the employee's status as an unauthorized alien during or after the period of employment; or

“(2) the employer's or employee's failure to comply with the requirements of this section.

“(i) DEFINITION.—In this section, the term ‘date of hire’ means the date on which employment for pay or other remuneration commences.”.

(b) CONFORMING AMENDMENT.—The table of contents for the Immigration and Nationality Act is amended by inserting after the item relating to section 274D the following:

“Sec. 274E. Requirements for the electronic verification of employment eligibility.”.

#### SEC. 302. MANDATORY ELECTRONIC VERIFICATION FOR THE AGRICULTURAL INDUSTRY.

(a) IN GENERAL.—The requirements for the electronic verification of identity and employment authorization described in section 274E of the Immigration and Nationality Act, as inserted by section 301 of this Act, shall apply to a person or entity hiring, recruiting, or referring for a fee an individual for agricultural employment in the United States in accordance with the effective dates set forth in subsection (b).

(b) EFFECTIVE DATES.—

(1) HIRING.—Subsection (a) shall apply to a person or entity hiring an individual for agricultural employment in the United States as follows:

(A) With respect to employers having 500 or more employees in the United States on the date of the enactment of this Act, on the date that is 6 months after completion of the application period described in section 101(c).

(B) With respect to employers having 100 or more employees in the United States (but less than 500 such employees) on the date of the enactment of this Act, on the date that is 9 months after completion of the application period described in section 101(c).

(C) With respect to employers having 20 or more employees in the United States (but less than 100 such employees) on the date of the enactment of this Act, on the date that is 12 months after completion of the application period described in section 101(c).

(D) With respect to employers having one or more employees in the United States, (but less than 20 such employees) on the date of the enactment of this Act, on the date that is 15 months after completion of the application period described in section 101(c).

(2) RECRUITING AND REFERRING FOR A FEE.—Subsection (a) shall apply to a person or entity recruiting or referring for a fee an individual for agricultural employment in the United States on the date that is 12 months after completion of the application period described in section 101(c).

(3) TRANSITION RULE.—Except as required under subtitle A of title IV of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) (as in effect on the day before the effective date described in section 303(a)(4)), Executive Order No. 13465 (8 U.S.C. 1324a note; relating to Government procurement), or any State law requiring persons or entities to use the E-Verify Program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) (as in effect on the day before the effective date described in section 303(a)(4)), sections 274A and 274B of the Immigration and Nationality Act (8 U.S.C. 1324a and 1324b) shall apply to a person or entity hiring, recruiting, or referring an individual for employment in the United States until the applicable effective date under this subsection.

(4) E-VERIFY VOLUNTARY USERS AND OTHERS DESIRING EARLY COMPLIANCE.—Nothing in this subsection shall be construed to prohibit persons or entities, including persons or entities that have voluntarily elected to participate in the E-Verify Program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) (as in effect on the day before the effective date described in section 303(a)(4)), from seeking early compliance on a voluntary basis.

(5) DELAYED IMPLEMENTATION.—The Secretary of Homeland Security, in consultation with the Secretary of Agriculture, may delay the effective dates described in paragraphs (1) and (2) for a period not to exceed 180 days if the Secretary determines, based on the most recent report described in section 133 and other relevant data, that a significant number of applications under section 101 remain pending.

(c) RURAL ACCESS TO ASSISTANCE FOR TENTATIVE NONCONFIRMATION REVIEW PROCESS.—

(1) IN GENERAL.—The Secretary of Homeland Security shall coordinate with the Secretary of Agriculture, in consultation with the Commissioner of Social Security, to create a process for individuals to seek assistance in contesting a tentative nonconfirmation as described in section 274E(b)(4)(D) of the Immigration and Nationality Act, as inserted by section 301 of this Act, at local offices or service centers of the U.S. Department of Agriculture.

(2) STAFFING AND RESOURCES.—The Secretary of Homeland Security and Secretary of Agriculture shall ensure that local offices and service centers of the U.S. Department of Agriculture are staffed appropriately and have the resources necessary to provide information and support to individuals seeking the assistance described in paragraph (1), including by facilitating communication between such individuals and the Department of Homeland Security or the Social Security Administration.

(3) CLARIFICATION.—Nothing in this subsection shall be construed to delegate authority or transfer responsibility for reviewing and resolving tentative nonconfirmations from the Secretary of Homeland Security and the Commissioner of Social Security to the Secretary of Agriculture.

(d) DOCUMENT ESTABLISHING EMPLOYMENT AUTHORIZATION AND IDENTITY.—In accordance with section 274E(b)(3)(A)(vii) of the Immigration and Nationality Act, as inserted by section 301 of this Act, and not later than 12 months after the completion of the application period described in section 101(c) of this Act, the Secretary of Homeland Security shall recognize documentary evidence of certified agricultural worker status described in section 102(a)(2) of this Act as valid proof of employment authorization and identity for purposes of section 274E(b)(3)(A) of the Immigration and Nationality Act, as inserted by section 301 of this Act.

(e) AGRICULTURAL EMPLOYMENT.—For purposes of this section, the term “agricultural employment” means agricultural labor or services, as defined by section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)), as amended by this Act.

#### SEC. 303. COORDINATION WITH E-VERIFY PROGRAM.

(a) REPEAL.—

(1) IN GENERAL.—Subtitle A of title IV of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is repealed.

(2) CLERICAL AMENDMENT.—The table of sections, in section 1(d) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, is amended by striking the items relating to subtitle A of title IV.

(3) REFERENCES.—Any reference in any Federal, State, or local law, Executive order, rule, regulation, or delegation of authority, or any document of, or pertaining to, the Department of Homeland Security, Department of Justice, or the Social Security Administration, to the E-

Verify Program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), or to the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), is deemed to refer to the employment eligibility confirmation system established under section 274E of the Immigration and Nationality Act, as inserted by section 301 of this Act.

(4) **EFFECTIVE DATE.**—This subsection, and the amendments made by this subsection, shall take effect on the date that is 30 days after the date on which final rules are published under section 309(a).

(b) **FORMER E-VERIFY MANDATORY USERS, INCLUDING FEDERAL CONTRACTORS.**—Beginning on the effective date in subsection (a)(4), the Secretary of Homeland Security shall require employers required to participate in the E-Verify Program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) by reason of any Federal, State, or local law, Executive order, rule, regulation, or delegation of authority, including employers required to participate in such program by reason of Federal acquisition laws (and regulations promulgated under those laws, including the Federal Acquisition Regulation), to comply with the requirements of section 274E of the Immigration and Nationality Act, as inserted by section 301 of this Act (and any additional requirements of such Federal acquisition laws and regulation) in lieu of any requirement to participate in the E-Verify Program.

(c) **FORMER E-VERIFY VOLUNTARY USERS.**—Beginning on the effective date in subsection (a)(4), the Secretary of Homeland Security shall provide for the voluntary compliance with the requirements of section 274E of the Immigration and Nationality Act, as inserted by section 301 of this Act, by employers voluntarily electing to participate in the E-Verify Program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) before such date.

#### **SEC. 304. FRAUD AND MISUSE OF DOCUMENTS.**

Section 1546(b) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking “identification document,” and inserting “identification document or document meant to establish employment authorization,”;

(2) in paragraph (2), by striking “identification document” and inserting “identification document or document meant to establish employment authorization,”; and

(3) in the matter following paragraph (3) by inserting “or section 274E(b)” after “section 274A(b)”.

#### **SEC. 305. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) **UNLAWFUL EMPLOYMENT OF ALIENS.**—Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended—

(1) in paragraph (1)(B)(ii) of subsection (a), by striking “subsection (b).” and inserting “section 274B.”; and

(2) in the matter preceding paragraph (1) of subsection (b), by striking “The requirements referred” and inserting “Except as provided in section 274E, the requirements referred”.

(b) **UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.**—Section 274B(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1324b(a)(1)) is amended in the matter preceding subparagraph (A), by inserting “including misuse of the verification system as described in section 274E(g)” after “referral for a fee.”.

#### **SEC. 306. PROTECTION OF SOCIAL SECURITY ADMINISTRATION PROGRAMS.**

(a) **FUNDING UNDER AGREEMENT.**—Effective for fiscal years beginning on or after October 1, 2021, the Commissioner and the Secretary shall ensure that an agreement is in place which shall—

(1) provide funds to the Commissioner for the full costs of the responsibilities of the Commissioner with respect to employment eligibility verification, including under this title and the amendments made by this title, and including—

(A) acquiring, installing, and maintaining technological equipment and systems necessary for the fulfillment of such responsibilities, but only that portion of such costs that are attributable exclusively to such responsibilities; and

(B) responding to individuals who contest a tentative nonconfirmation or administratively appeal a final nonconfirmation provided with respect to employment eligibility verification;

(2) provide such funds annually in advance of the applicable quarter based on an estimating methodology agreed to by the Commissioner and the Secretary (except in such instances where the delayed enactment of an annual appropriation may preclude such quarterly payments); and

(3) require an annual accounting and reconciliation of the actual costs incurred and the funds provided under the agreement, which shall be reviewed by the Inspectors General of the Social Security Administration and the Department of Homeland Security.

(b) **CONTINUATION OF EMPLOYMENT VERIFICATION IN ABSENCE OF TIMELY AGREEMENT.**—In any case in which the agreement required under subsection (a) for any fiscal year beginning on or after October 1, 2021, has not been reached as of October 1 of such fiscal year, the latest agreement described in such subsection shall be deemed in effect on an interim basis for such fiscal year until such time as an agreement required under subsection (a) is subsequently reached, except that the terms of such interim agreement shall be modified to adjust for inflation and any increase or decrease in the volume of requests under the employment eligibility verification system. In any case in which an interim agreement applies for any fiscal year under this subsection, the Commissioner and the Secretary shall, not later than October 1 of such fiscal year, notify the Committee on Ways and Means, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives and the Committee on Finance, the Committee on the Judiciary, and the Committee on Appropriations of the Senate of the failure to reach the agreement required under subsection (a) for such fiscal year. Until such time as the agreement required under subsection (a) has been reached for such fiscal year, the Commissioner and the Secretary shall, not later than the end of each 90-day period after October 1 of such fiscal year, notify such Committees of the status of negotiations between the Commissioner and the Secretary in order to reach such an agreement.

#### **SEC. 307. REPORT ON THE IMPLEMENTATION OF THE ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.**

Not later than 24 months after the date on which final rules are published under section 309(a), and annually thereafter, the Secretary shall submit to Congress a report that includes the following:

(1) An assessment of the accuracy rates of the responses of the electronic employment verification system established under section 274E of the Immigration and Nationality Act, as inserted by section 301 of this Act (referred to in this section as the “System”), including tentative and final nonconfirmation notices issued to employment-authorized individuals and confirmation notices issued to individuals who are not employment-authorized.

(2) An assessment of any challenges faced by persons or entities (including small employers) in utilizing the System.

(3) An assessment of any challenges faced by employment-authorized individuals who are issued tentative or final nonconfirmation notices.

(4) An assessment of the incidence of unfair immigration-related employment practices, as

described in section 274E(g) of the Immigration and Nationality Act, as inserted by section 301 of this Act, related to the use of the System.

(5) An assessment of the photo matching and other identity authentication tools, as described in section 274E(a)(4) of the Immigration and Nationality Act, as inserted by section 301 of this Act, including—

(A) an assessment of the accuracy rates of such tools;

(B) an assessment of the effectiveness of such tools at preventing identity fraud and other misuse of identifying information;

(C) an assessment of any challenges faced by persons, entities, or individuals utilizing such tools; and

(D) an assessment of operation and maintenance costs associated with such tools.

(6) A summary of the activities and findings of the U.S. Citizenship and Immigration Services E-Verify Monitoring and Compliance Branch, or any successor office, including—

(A) the number, types and outcomes of audits, investigations, and other compliance activities initiated by the Branch in the previous year;

(B) the capacity of the Branch to detect and prevent violations of section 274E(g) of the Immigration and Nationality Act, as inserted by this Act; and

(C) an assessment of the degree to which persons and entities misuse the System, including—

(i) use of the System before an individual's date of hire;

(ii) failure to provide required notifications to individuals;

(iii) use of the System to interfere with or otherwise impede individuals' assertions of their rights under other laws; and

(iv) use of the System for unauthorized purposes; and

(7) An assessment of the impact of implementation of the System in the agricultural industry and the use of the verification system in agricultural industry hiring and business practices.

#### **SEC. 308. MODERNIZING AND STREAMLINING THE EMPLOYMENT ELIGIBILITY VERIFICATION PROCESS.**

Not later than 12 months after the date of the enactment of this Act, the Secretary, in consultation with the Commissioner, shall submit to Congress a plan to modernize and streamline the employment eligibility verification process that shall include—

(1) procedures to allow persons and entities to verify the identity and employment authorization of newly hired individuals where the in-person, physical examination of identity and employment authorization documents is not practicable;

(2) a proposal to create a simplified employment verification process that allows employers that utilize the employment eligibility verification system established under section 274E of the Immigration and Nationality Act, as inserted by section 301 of this Act, to verify the identity and employment authorization of individuals without also having to complete and retain Form I-9, Employment Eligibility Verification, or any subsequent replacement form; and

(3) any other proposal that the Secretary determines would simplify the employment eligibility verification process without compromising the integrity or security of the system.

#### **SEC. 309. RULEMAKING AND PAPERWORK REDUCTION ACT.**

(a) **IN GENERAL.**—Not later than 180 days prior to the end of the application period defined in section 101(c) of this Act, the Secretary shall publish in the Federal Register proposed rules implementing this title and the amendments made by this title. The Secretary shall finalize such rules not later than 180 days after the date of publication.

(b) **PAPERWORK REDUCTION ACT.**—

(1) **IN GENERAL.**—The requirements under chapter 35 of title 44, United States Code, (commonly known as the “Paperwork Reduction

Act") shall apply to any action to implement this title or the amendments made by this title.

(2) **ELECTRONIC FORMS.**—All forms designated or established by the Secretary that are necessary to implement this title and the amendments made by this title shall be made available in paper and electronic formats, and shall be designed in such a manner to facilitate electronic completion, storage, and transmittal.

(3) **LIMITATION ON USE OF FORMS.**—All forms designated or established by the Secretary that are necessary to implement this title, and the amendments made by this title, and any information contained in or appended to such forms, may not be used for purposes other than for enforcement of this Act and any other provision of Federal criminal law.

The SPEAKER pro tempore. The bill, as amended, shall be debatable for 1 hour, equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary or their respective designees.

The gentleman from New York (Mr. NADLER) and the gentleman from Ohio (Mr. JORDAN) each will control 30 minutes.

The Chair recognizes the gentleman from New York.

#### GENERAL LEAVE

Mr. NADLER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 1603.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. NADLER. Madam Speaker, I yield myself 2½ minutes.

Madam Speaker, H.R. 1603, the Farm Workforce Modernization Act of 2021 addresses an issue of critical national importance: the growing labor challenges that are damaging the American agriculture sector.

Solving this issue is paramount to the sustainability of American farming. It is also a matter of food security, and thus, national security. As domestic food outputs decline, we have become more dependent on food imports and more vulnerable to food contamination. The COVID-19 pandemic exposed these vulnerabilities as travel restrictions impacted our food supply chain, and over 500,000 farmworkers tested positive for the virus.

With fewer U.S. workers turning to agricultural work as their chosen pursuit, most of today's hired farm laborers are foreign-born. Unfortunately, our immigration laws have not been updated to reflect the needs of our 21st century economy.

As a result of these outdated laws, undocumented workers now comprise about half of the U.S. workforce. But they are living and working in a state of uncertainty and fear, which contributes to the destabilization of farms across the Nation.

H.R. 1603, the Farm Workforce Modernization Act, addresses these challenges head on. The bill provides temporary status to current farmworkers with an optional path to a green card for those who continue to work in agri-

culture. The bill also addresses the Nation's future labor needs by modernizing the H-2A temporary visa program, while ensuring fair wages and workplace conditions for all farmworkers.

This is a bipartisan, balanced solution, one that we should all be able to get behind. It is a victory for farmers who have struggled with persistent labor shortages for decades.

It is also a victory for farmworkers who have worked tirelessly in the field growing and harvesting food without proper labor protections or any guarantee that they can remain in this country. No acceptable solution can fail to deal with this reality. That is why H.R. 1603 is the right solution.

Madam Speaker, I hope my colleagues will vote today in favor of providing a seat at America's table for those who have long grown the food we serve on it.

Madam Speaker, I thank my friend and colleague, Ms. LOFGREN of California, the chair of the Immigration Subcommittee, for her leadership and steadfast commitment to the bipartisan process that led to today's vote on the Farm Workforce Modernization Act.

Madam Speaker, I urge all my colleagues to support our farmers and our farmworkers by supporting this bill, and I reserve the balance of my time.

□ 1430

Mr. JORDAN. Madam Speaker, I yield 3 minutes to the gentleman from California (Mr. MCCLINTOCK), the ranking member of the Immigration and Citizenship Subcommittee.

Mr. MCCLINTOCK. Madam Speaker, it was no accident that when we finally won control of the border and cut the flow of low-wage labor, Americans saw the strongest wage growth in 40 years, the lowest unemployment rate in 50 years, and the lowest poverty rate in 60 years. For the first time in decades, the wage gap between rich and poor narrowed.

Now, this bill extends amnesty, green cards, and a path to citizenship to somewhere between 1 and 2½ million illegal immigrants now working in agriculture and their families in a manner that will depress wages, not just in agriculture, but in every field of the economy for years to come.

Madam Speaker, if you obeyed the law and came here legally to work, then you cannot qualify as a certified agricultural worker. You must have come here illegally, and you must have worked here illegally for at least 1,035 hours in the last 2 years. That is about 13 40-hour workweeks a year. You get legal status for yourself and your family for the next 5½ years. You can get indefinite extensions as long as you work in agriculture 575 hours or about 14 weeks a year. If you do this for between 4 and 8 years and you get a green card, then your family gets green cards and you are on a 5-year path to citizenship. The green cards give you the

right to work in direct competition with American workers in any sector of the economy.

Madam Speaker, let me emphasize that if you came here legally and worked the same hours, then you are out of luck. If you obeyed the laws, well, you are just a schmuck.

It utterly escapes me how America's working families are helped by flooding the labor market with millions of low-wage workers under this program. As these workers get green cards, they are sure to move from agriculture to high-paying jobs, ensuring a continuous need for new agricultural workers to replace them.

Between the two immigration bills today, somewhere north of 4 million illegal immigrants will qualify for amnesty, legal employment, and a path to citizenship as a reward for breaking our laws.

Is it any wonder that our Border Patrol is now completely overwhelmed as millions of economic refugees rush our border in expectation of the same rewards?

This bill would bring a tragic end to the blue-collar economic boom that President Trump proudly announced on this floor just a year ago. Here is the real tragedy: During the Trump blue-collar boom, the poorest Americans were making the greatest gains, and it is precisely these American families who will be the most harmed by these amnesty bills.

Trump had their back. Biden is on their backs.

Mr. NADLER. Madam Speaker, I yield 3 minutes to the distinguished gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Madam Speaker, our country has come through a pandemic, and many of us have suffered, but there is one thing that we can be grateful for, and that is that the food chain was never disrupted.

Throughout the pandemic, we could go to the grocery store and there would be food in that store. For that, we need to thank the farmers of this country. But we also need to thank the farmworkers of this country, a majority of whom are undocumented and a majority of whom have been here more than 10 years.

What this bill does and how it was formed is important. I want to thank Representatives DAN NEWHOUSE, MIKE SIMPSON, DOUG LAMALFA, and many others on the Republican side of the aisle. I worked with JIM COSTA, JIMMY PANETTA, and many others to try to see if we could come together to come up with solutions for the challenges that we face in farm country.

We pulled together growers and the farmworkers union to talk together for solutions. It took us almost a year of growers and the farmworkers union, and Republicans and Democrats, sitting around a table to come up with this bill.

It has basically three provisions.

The first recognizes that we have had undocumented farmworkers in our

fields for decades. It allows them to get a certified agricultural worker card so that they can work without fear. That is a temporary worker status. They can renew it, travel, pay taxes, and continue forever in that status. After working for a long period of time, they and their families have the option of applying for legal permanent residence if they choose.

The second provision streamlines an existing program, the H-2A program, so that we will have a legal supply of farmworkers in the future. Both labor and employers agreed to those streamlines.

The final provision says that if we have a system that works, then we need to enforce that system. We are going to have the E-Verify system used in agriculture after this bill is fully implemented.

Who is in favor of this? The Arizona Nursery Association, California Farm Bureau Federation, Georgia Milk Producers, Michigan Greenhouse Growers Council, Minnesota Milk Producers Association, Ohio Produce Growers Marketing Association, Texas Association of Dairymen, and hundreds of other growers.

Madam Speaker, I include in the RECORD a list of Farmers and Producers Associations supporting H.R. 1603.

[From the House Committee on the Judiciary]

OVER 250 FARMERS AND PRODUCERS ASSOCIATIONS SUPPORT H.R. 1603

African-American Farmers of California; Ag Valley Cooperative, Non-Stock; AgCountry Farm Credit Services; Agribusiness Henderson County (NC); Agricultural Council of California; Agri-Mark, Inc.; Alabama Farmers Cooperative, Inc.; Alabama Nursery and Landscape Association; Almond Alliance; Amalgamated Sugar Company; American AgCredit; American AgriWomen; American Beekeeping Federation; American Honey Producers Association; American Mushroom Institute; American Pistachio Growers; American Seed Trade Association; American Sheep Industry Association (ASI); AmericanHort; Arizona Dairy Producers Trade Association; Arizona Nursery Association; Associated Milk Producers Inc.; Aurora Organic Dairy; Bluebird Bonanza Farms; Bongards' Creameries; CalChamber.

California Apple Commission; California Association of Food Banks; California Association of Wheat Growers; California Avocado Commission; California Blueberry Association; California Blueberry Commission; California Canning Peach Association; California Cherry Growers and Industry Association; California Citrus Mutual; California Dairies, Inc.; California Date Commission; California Dried Plum Board; California Farm Bureau Federation; California Fig Advisory Board; California Fresh Fruit Association; California Pear Growers Association; California Seed Association; California State Floral Association; California Strawberry Commission; California Sweet Potato Council; California Tomato Growers Association; California Walnut Commission; California Warehouse Association.

California Women for Agriculture; Cayuga Milk Ingredients; Center for Dairy Excellence (Pennsylvania); Central Valley Ag Coop; Certified American Grown; Chobani; CHS Inc.; Co-Alliance Cooperative, Inc.;

CoBank; Colorado Dairy Farmers; Colorado Nursery and Greenhouse Association; Colorado Potato Legislative Association; Cooperative Milk Producers Association; Cooperative Producers, Inc.; Costa Farms; Dairy Farmers of America, Inc.; Dairy Producers of New Mexico; Dairy Producers of Utah; Edge Dairy Farmer Cooperative; Ellsworth Cooperative Creamery; Empire State Potato Growers; Far West Agribusiness Association; Farm Credit East; Farmers Cooperative.

FarmFirst Dairy Cooperative; Federation of Employers and Workers of America; First District Association; Florida Agri-Women; Florida Citrus Mutual; Florida Fruit and Vegetable Association; Florida Nursery, Growers and Landscape Association; Florida Strawberry Growers Association; Florida Tomato Exchange; Food Northwest; Food Producers of Idaho; Foremost Farms USA; Frenchman Valley Farmers Cooperative Inc.; Fresh Harvest/Steve Scaroni (CA); Fresno County Farm Bureau (CA); Georgia Green Industry Association; Georgia Milk Producers, Inc.; Georgia Urban Ag Council; Glanbia Nutritionals; Idaho Alfalfa/Clover Seed Commission; Idaho Alfalfa/Clover Seed Growers Association; Idaho Apple Commission; Idaho Association of Commerce and Industry; Idaho Bankers Association; Idaho Cattleman's Association.

Idaho Dairymen's Association; Idaho Grain Producers Association; Idaho Grower Shippers Association; Idaho Hispanic Chamber of Commerce; Idaho Hop Growers Association; Idaho Horticulture Society; Idaho Milk Products; Idaho Mint Growers Association; Idaho Nursery and Landscape Association; Idaho Onion Growers Association; Idaho Potato Commission; Idaho Sugarbeet Growers; Idaho-Oregon Fruit & Vegetable Association; Illinois Green Industry Association; Indiana Nursery and Landscape Association; Indiana Outdoor Maintenance Alliance; International Dairy Foods Association; Iowa Institute for Cooperatives; Iowa Nursery & Landscape Association; Iowa State Dairy Association; Kansas Dairy Association; Land O'Lakes, Inc.; Laurel Springs Nursery, LLC (NC); Leitz Farms LLC/Fred Leitz (MI); Lone Star Milk Producers; Madera County Farm Bureau (CA); Maine Landscape & Nursery Association; Maine Potato Board.

Maryland & Virginia Milk Producers Cooperative Association; Maryland Nursery, Landscape, and Greenhouse Association, Inc.; Massachusetts Nursery and Landscape Association, Inc.; MBG Marketing; McCain USA Inc.; Michigan Apple Association; Michigan Greenhouse Growers Council; Michigan Milk Producers Association; Michigan Nursery and Landscape Association; Mid Kansas Cooperative; Midwest Apple Improvement Association; Midwest Dairy Coalition; Milk Producers Council; Milk Producers of Idaho; Minnesota Milk Producers Association; Minnesota Nursery & Landscape Association; Missouri Green Industry Alliance; Montana Nursery and Landscape Association; Monterey County Farm Bureau (CA); Mount Joy Farmers Cooperative Association; Napa Vinters Association; National All-Jersey Inc.; National Council of Agricultural Employers; National Council of Farmer Cooperatives; National Farmers Union; National Grange; National Milk Producers Federation.

National Onion Association; National Potato Council; National Young Farmers Coalition; Nebraska Cooperative Council; Nebraska State Dairy Association; New England Apple Council; New Jersey Landscape Contractors Association; New Jersey Nursery & Landscape Association; New Mexico Chapter, Colorado Nursery and Greenhouse Association; New York Apple Association; New York Farm Bureau; New York State Flower Industries; New York State Vege-

table Growers Association; Nezperce Prairie Grass Growers Association; Nisei Farmers League; North American Blueberry Council; North Carolina Dairy Producers Association; North Carolina Nursery & Landscape Association; North Carolina Potato Association; Northeast Dairy Farmers Cooperatives; Northeast Dairy Producers Association, Inc.; Northern Family Farms LLP, Merrillan, WI; Northern Plains Potato Growers Association; Northwest Ag Cooperatives Council; Northwest Dairy Association/Darigold; Northwest Horticultural Council.

Ohio Apple Marketing Program; Ohio Dairy Producers Association; Ohio Fruit Growers Marketing Association; Ohio Landscape Association; Ohio Nursery & Landscape Association; Ohio Produce Growers Marketing Association; Oklahoma Nursery & Landscape Association; Olive Growers Council of California; Oneida-Madison Milk Producers Cooperative Association; Oregon Association of Nurseries; Oregon Dairy Farmers Association; Oregon Potato Commission; Pacific Northwest Christmas Tree Association; PennAg Industries Association; Pennsylvania Cooperative Potato Growers; Pennsylvania Landscape and Nursery Association; Plant California Alliance; Potato Growers of Michigan, Inc.; Prairie Farms Dairy, Inc.; Professional Dairy Managers of Pennsylvania; Reiter Affiliated Companies; Rhode Island Nursery and Landscape Association; San Diego County Farm Bureau (CA); Scioto Cooperative Milk Producers' Association; Select Milk Producers, Inc.; Simplot; South Dakota Association of Cooperatives; South Dakota Dairy Producers; Southeast Milk Inc.; Southern States Cooperative; Stanislaus County Farm Bureau (CA).

Sunkist Growers, Inc.; Sunmaid Growers of California; Sunsweet Growers Inc.; Tennessee Farmers Cooperative; Texas Agricultural Cooperative Council; Texas Association of Dairymen; Texas Citrus Mutual; Texas Nursery & Landscape Association; Tillamook County Creamery Association; Tree Top; Tulare County Farm Bureau (CA); Turfgrass Producers International; U.S. Apple Association; U.S. Durum Growers Association; United Dairymen of Arizona; United Fresh Produce Association; United Potato Growers of America; Upstate Niagara Cooperative, Inc.; Utah Apple Marketing Board; Utah Horticulture Association; Utah Nursery & Landscape Association; Utah Tart Cherry Marketing Board.

Valley Fig Growers; Valley Vision (CA); Ventura County Agricultural Association (CA); Vermont Dairy Producers Alliance; Virginia Apple Growers Association; Virginia Nursery & Landscape Association; Virginia State Dairymen's Association; Washington Growers League; Washington State Dairy Federation; Washington State Nursery & Landscape Association; Washington State Potato Commission; Washington State Tree Fruit Association; West Virginia Nursery & Landscape Association; Western Growers Association; Western Plant Health Association; Western States Dairy Producers Association; Western United Dairies; Wine Institute; WineAmerica; Wisconsin Landscape Contractors Association; Wisconsin Potato & Vegetable Growers Association; Yuma Fresh Vegetable Association.

Ms. LOFGREN. Madam Speaker, we have many others, including labor. We have the National Association of Counties, United Farm Workers, Service Employees International Union, U.S. Chamber of Commerce, and Conference of Catholic Bishops.

Madam Speaker, I include in the RECORD a list of organizations supporting H.R. 1603.

[From the House Committee on the Judiciary]

MORE THAN 100 ORGANIZATIONS, REPRESENTING LABOR UNIONS, IMMIGRANTS' RIGHTS, AND BUSINESS INTERESTS HAVE EXPRESSED THEIR SUPPORT FOR H.R. 1603  
LABOR UNIONS AND IMMIGRANT RIGHTS ADVOCATES

United Farm Workers (UFW); UFW Foundation; Farmworker Justice; African Communities Together; America's Voice; American Immigration Lawyers Association; Association of Farmworker Opportunity Programs; Bend the Arc; Jewish Action; Bipartisan Policy Center Action; Bridges Faith Initiative; Carbondale Branch NAACP; CASA; Center for American Progress; Center for Law and Social Policy (CLASP); Central American Resource Center of Northern CA—CARECEN SF; Centro de los Derechos del Migrante, Inc.; Child Labor Coalition; Children's Defense Fund; Church World Service; El Colectivo NC; Faith in Public Life; Farmworker and Landscaper Advocacy Project—FLAP—FWD.us; Greater New York Labor-Religion Coalition; Health Outreach Partners; Hispanic Federation; Immigrant Worker Project—Centro San Jose; Immigration Hub.

Justice for Migrant Women; Justice in Motion; La Unión del Pueblo Entero; Latino Service Center; Leadership Conference of Women Religious; Legal Aid Society of Metropolitan Family Services; LIUNA; LULAC; MI Familia Vota; Migrant Legal Aid (Michigan); MomsRising/MamásConPoder; NAACP; National Consumers League; National Domestic Workers Alliance; National Immigration Forum; NC Justice Center; NETWORK Lobby For Catholic Social Justice; New American Economy; Ohio Immigrant Alliance; Oxfam America; PCUN; Service Employees International Union (SEIU); The Advocates for Human Rights; The Foundation for Farmworkers; The LIBRE Initiative; U.S. Hispanic Leadership Institute; UndocuBlack Network; USHLI.

#### BUSINESS, COMMUNITY, AND OTHER ORGANIZATIONS

Americans for Prosperity; National Association of Counties (NACo); National Association of State Departments of Agriculture (NASDA); National Education Association (NEA); Maryland Pesticide Education Network; PhDTrekkers; Rochelle Township High School; South Central Idaho Hispanic Chamber of Commerce; Union for Reform Judaism; U.S. Chamber of Commerce; U.S. Conference of Catholic Bishops; U.S. Hispanic Chamber of Commerce.

Ms. LOFGREN. Madam Speaker, I ask that we come together and pass this bill. America will be stronger and better if we do.

Mr. JORDAN. Madam Speaker, I yield the balance of my time to the gentleman from California (Mr. McCLINTOCK) to control the remainder of the time.

The SPEAKER pro tempore. The gentleman from California will control the time.

Mr. McCLINTOCK. Madam Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. BIGGS).

Mr. BIGGS. Madam Speaker, while the Biden inhumane border crisis rages on the southern border, we are here today, once again, debating amnesty for illegal aliens.

Promising amnesty to those who are already here illegally encourages more aliens to come illegally. All data for the last 35 years shows that there is this correlative relationship.

Instead of voting on amnesty, we should be voting on real reforms to close loopholes and remove incentives for aliens to come here illegally. That is why I reintroduced the Fund and Complete the Border Wall Act earlier this year and introduced the Stopping Border Surges Act earlier this week. These bills include real reforms that will have real impacts.

The Stopping Border Surges Act fixes problems caused by the Flores settlement agreement that prevents DHS from detaining family units for more than 20 days, ensures that unaccompanied alien children are quickly and safely returned home, and promotes increased integrity in the asylum system.

This bill, however, will actually cause more problems than it will solve. It has serious flaws that will lead to fraud and abuse.

This bill gives the Secretary broad authority to waive grounds of inadmissibility for humanitarian purposes, family unity, or because the waiver is otherwise in the public interest. What that means is that convicted criminals will have an opportunity to gain amnesty.

This bill invites fraudulent applications because under this bill, Madam Speaker, if you apply for amnesty, your receipt serves as your authorization to work. All you have to do is apply for the amnesty and you will be able to work legally. There is no way that this will not lead to fraudulent filings.

This bill establishes grant programs that use taxpayer dollars to help illegal aliens apply for amnesty. Instead of spending taxpayer dollars to facilitate amnesty, we should focus on reducing the deficit. This bill does nothing to secure the border or close loopholes in our immigration laws that encourage illegal immigration.

Now, I address something that was said in the last debate. One of the Representatives said that no Republican has taken her up on going to the border. That is not accurate. When she announced that in the Judiciary Committee, I said that I will go with you, that I want to go with you.

We agreed I would go. Our staffs arranged it. My flight reservations were made, and within about 3 days before going, I was told that there is no more room for you on this trip.

So, it wasn't accurate to say that no Republican has taken her up on it. I took her up on it.

I will tell you this, Madam Speaker, when the Speaker says the reason to support the previous bill is that 75 percent of Americans support amnesty, well, if you are going to rely on polling data, I would inform you that a recent poll said that 75 percent of Americans support the use of voter ID. Let's go ahead and fix that then if we are going to rely on voting information to pass good policy.

Let's reinstitute voter ID, and let's vote "no" on this bill.

Mr. NADLER. Madam Speaker, I yield 1½ minutes to the distinguished gentlewoman from Texas (Ms. GARCIA).

Ms. GARCIA of Texas. Madam Speaker, I rise in strong support of this bill. Agricultural workers are crucial to our economy, and this bill would establish a legal and reliable farm workforce.

I support this bill because it recognizes the humanity—yes, the humanity—of farmworkers and their families.

This is personal to me. I grew up poor, picking cotton in the fields of south Texas. I can testify firsthand about the incredibly hard, back-breaking work that farmworkers do, especially in the heat of the south Texas sun. Not much seems to have changed since I worked in the fields. Things pretty much still are handled about the same.

This bill is long overdue and would provide farmworkers with important worker protections and legal rights that I never had and that they desperately need today. Texas is home to nearly 250,000 farms, and the need for a strong agricultural workforce is vital. It is vital to Texas; it is vital to this country; and it is vital to this world.

Madam Speaker, I urge passage.

Mr. McCLINTOCK. Madam Speaker, I yield 3 minutes to the gentleman from Texas (Mr. ROY).

Mr. ROY. Madam Speaker, I thank the gentleman from California for yielding.

Madam Speaker, I hear a lot from my colleagues on the other side of the aisle that this is not how people should be treated, whether it was with respect to the first broader amnesty bill, with respect to the Dreamers, or whether it is this bill with respect to farmworkers, which is, in fact, an amnesty bill. But the fact of the matter is that nobody on this side of the aisle and nobody I know in Texas disagrees that the system is broken and that we need to make sure that people are treated fairly and treated appropriately. Nobody disagrees with that.

The problem is that what we are doing is putting this bill in front of any kind of enforcement mechanisms that will prevent the continued abuse of human beings because we refuse to do our actual job under the Constitution of the United States to secure our border.

We are just refusing to do it, and then we pass legislation in the name of helping people who, yes, are stuck in a system because we created this system because it is so badly broken. You then create the magnet, Madam Speaker, that empowers cartels and continues the vicious cycle.

Today, when this passes off the floor, there will be a lot of backslapping and congratulations: Isn't this great, isn't this awesome, and aren't we so proud of ourselves for what we are doing for these immigrants, these workers?

But we are not doing a darn thing to actually fix the system that prevents the flow, prevents the danger, prevents the cartels, prevents the abuses, and

prevents essentially the indentured servitude that this bill would actually create for the farmworkers in question, leaving them stuck with Band-Aids of having to work certain hours as farmworkers, continuing the process, by the way, while we continue to encourage sex trafficking, human trafficking, crimes, violations, and children being abused.

As I said before, as we sit here in this august body—not actually amending, by the way, just bloviating—while we are sitting here, some little girl is getting raped in Mexico on a journey because of the pressure that we are causing by empowering cartels to do it. That is occurring, and we are just whistling, and we are just sitting here, burying our head in the sand.

Like I said, go give the press conferences and go pat ourselves on the back as a body for being pro-immigrant. How is it pro-immigrant to have wide-open borders being exploited by cartels, wide-open borders with narcotics coming across, and wide-open borders with human beings coming across it?

By the way, when the media says this Biden crisis has ended, if they ever acknowledge it exists, it will be because numbers are going down in facilities because catching and releasing is going up. That is what is going to occur.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. McCLINTOCK. Madam Speaker, I yield the gentleman from Texas an additional 30 seconds.

Mr. ROY. Madam Speaker, that is what is going to occur. My fellow citizens back home in Texas and Americans, when those numbers go down in facilities, don't kid yourselves; illegal immigration will continue.

They will be catching and releasing illegal immigrants. They will be dropping numbers down at facilities. They will close the FEMA facility in Midland. We will have as much illegal immigration as we have right now, and the other side will claim: Oh, the crisis is going down.

That is what is coming at us. And today, we are passing amnesty instead of securing the border of the United States.

□ 1445

Mr. NADLER. Madam Speaker, I yield 1½ minutes to the gentleman from Arizona (Mr. STANTON).

Mr. STANTON. Madam Speaker, I thank Chairman NADLER and Chairwoman LOFGREN for their incredible leadership on this important bill.

I rise in support of the Farm Workforce Modernization Act, a bipartisan bill that will improve the H-2A agricultural visa program to make it easier for Arizona farmers to meet their workforce needs while also providing a path for agricultural workers to earn legal status.

Throughout this pandemic, farmworkers have been on the front lines playing a critical role in feeding Amer-

ica's families. They deserve the opportunity to take steps toward legal status in this country. It is the right thing to do for them and it is the right thing to do to advance our farm industry.

This bill is good for Arizona's economy—Arizona, the birth place of Cesar Chavez—where agribusiness is a \$23 billion-a-year industry. Our State's crops cannot be left to rot in the ground because we lack access to a stable workforce.

Passing this bill today brings us one step closer to ensuring that farmers have the stable workforce they need and that farmworkers are recognized for all the work they do for us every day.

Mr. McCLINTOCK. Madam Speaker, I yield 2½ minutes to the gentleman from Georgia (Mr. HICE).

Mr. HICE of Georgia. Madam Speaker, I thank the gentleman from California for yielding.

It is stunning to me that we are still wrestling through these type of issues. We have been watching over the last few months one radical piece of legislation after another and our country is beginning to suffer. We are watching gas prices go up, skyrocketing. We are still shutting businesses down. We are still seeing schools closed. We are watching our energy independence be reversed.

Madam Speaker, it is one horrible bill, one horrible policy after another. And now we are watching a catastrophe on our southern border, and my friends on the other side of the aisle appear to not care what is happening at the southern border.

We haven't honestly called it for what it is: a disaster.

We are not willing to look at the national security issues of it. We are not willing to look at the danger that is occurring, the cartels, the human trafficking, the drug trafficking, the criminals who, perhaps, are coming across our border, the terrorists who may be coming across our border.

And now what are we doing?

We are looking at another outrageous piece of legislation that says: if you come work on a farm, we are going to give you amnesty. It doesn't matter what your background. It doesn't matter who you are.

At the same time, we even have here around Capitol Hill fences guarding us, guarding the American people from the people's House, but we are going to open up our borders for who knows who to come marching through.

Now we have a piece of legislation that says: just come work on a farm and we are going to give you amnesty.

Madam Speaker, 1.5 million people are going to become citizens for working minimal time on farms.

This is going to shield criminals. They are just going to come across the border, claim amnesty, come work on a farm, and before long, they are legal citizens here.

We don't know who these people are. We don't know what their intentions

are, but we are going to grant them amnesty through this bill. It is nonsense. It is frightening. It is irresponsible. It is endangering American lives. It is encouraging even more disaster and danger on our southern border.

It makes absolutely zero sense for us to proceed with this type of irresponsible legislation, and I urge my colleagues to vote against this.

Mr. NADLER. Madam Speaker, I yield 1½ minutes to the distinguished gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE. Madam Speaker, as I stood on the floor of the House for H.R. 6, this is not amnesty. I thank the gentlewoman from California (Ms. LOFGREN) for her leadership, and Mr. NADLER as well.

Madam Speaker, let me explain to you that under the American Dream and Promise Act, which immigrants are eligible for, they would have 43,500 homes and \$340 million in mortgage payments.

Today, I rise in support of H.R. 1603 because this would allow farmworkers, agricultural workers, to be able to gain legal status and to be able to seek a certified agricultural worker status.

Dr. RUIZ, our colleague, indicated that he was raised by farmworkers. He saw the bent hands, the bent backs, and the broken hands, and he saw the patriotism. This is not amnesty. I will tell you what it is not. It is not the Trump policy of caging children in cages. It is not the Trump policy of turning young 11-year-olds back across the border to be raped.

I hope my colleagues who are talking about abortion and talking about rape voted for the Violence Against Women Act to really protect immigrant women.

I rise to support this legislation because it will provide dignity, opportunity for an enhanced economic engine, as the farmworkers take certified status because they can do it over and over again.

Where is the bread on our table coming from?

The hardworking farmworkers who are out there every day in these fields working to provide for the American people and the people around the world.

We are the breadbasket of the world and, because of their work, we are able to feed many. So I rise in enthusiastic support. I wish my colleagues would have been as enthusiastic and as angry about caging children as they are today about us fixing the immigration system.

Madam Speaker, I ask for support of H.R. 1603.

Madam Speaker, I rise in strong support of H.R. 1603, the bipartisan "Farm Workforce Modernization Act," which will stabilize the agricultural sector and preserve our rural heritage by ensuring that farmers can meet their labor needs well into the future.

First, the bill establishes a program for agricultural workers in the United States (and their spouses and minor children) to earn legal status through continued agricultural employment.



Specifically, the bill creates a process for farm workers to seek Certified Agricultural Worker status, a temporary status for those who have worked at least 180 days in agriculture over the prior 2-year period.

Certified Agricultural Worker status can be renewed indefinitely with continued farm work (at least 100 days per year).

Applicants must undergo background checks and pass strict criminal and national security bars.

Dependent status is available for spouses and minor children.

The bill does not require workers to do or apply for anything else in order to stay and work in the United States.

But long-term workers who want to stay have the option of earning a path to lawful permanent residence by paying a \$1,000 fine and engaging additional agricultural work, as follows:

1. Workers with 10 years of agricultural work prior to the date of enactment must complete 4 additional years of such work.

2. Workers with less than 10 years of agricultural work prior to the date of enactment must complete 8 additional years of such work.

The Farmworkers Movement in this country was started and led by a great leader, Cesar Chavez who said:

We cannot seek achievement for ourselves and forget about progress and prosperity for our community. Our ambitions must be broad enough to include the aspirations and needs of others, for their sakes and for our own.

The Texas Farm Workers Union ("TFWU") was established by Antonio Orendain and farmworker leaders of the Rio Grande Valley active with the United Farm Workers (UFW) after a disagreement with UFW leadership over direction of a melon strike in south McAllen, TX in 1975.

In August 1975, nearly ten years after he began organizing farm workers for the United Farm Workers in the Rio Grande Valley of South Texas.

Antonio Orendain worked for Cesar Chavez in the Chicago UFW national grape and lettuce boycott office.

Farmworkers undertake some of the toughest jobs in America.

They have earned the opportunity to build their lives without the fear of being uprooted from their families and their communities.

The bipartisan Farm Workforce Modernization Act empowers the economic and physical well-being of immigrant families while providing much-needed labor security for our nation's farms.

The agricultural industry relies on the labor of 2.4 million farmworkers—about half of whom are undocumented.

This bill would protect thousands of families from deportation.

This is a big step in making our immigration system more humane and more efficient.

I know the farming and agricultural communities in the state of Texas farm and my district borders communities that farm.

What we are doing here is the right thing and attempting to reinforce the breadbasket that the United States happens to be to the world.

I have heard the clamoring of farm workers for a very long time but I have also heard the need for fairness and the improvement of con-

ditions that they are working in with adequate compensation.

This bill regularizes people who want to be regularized and who want to contribute to helping the agricultural industry in this great nation.

I would like to thank my Judiciary Committee colleagues on both sides of the aisle, and in particular, Chairman NADLER and Subcommittee Chairwoman LOFGREN, for their work in shepherding this important legislation to the floor.

I am reminded of our tenure here on the Judiciary Committee and our record of being fair and bipartisan on immigration reform for at least 2 decades.

I urge all members to join me in voting for H.R. 1603, the Farm Workforce Modernization Act of 2021.

Mr. MCCLINTOCK. Madam Speaker, I yield myself such time as I may consume.

I can assure the gentlewoman from Texas that we are outraged by the fact that this administration's policies and pronouncements have encouraged thousands upon thousands of children to be placed on that trail of terror in the hands of Mexican criminal cartels and brought here on the expectation of admission, an expectation that this administration is fulfilling.

I must also assure the gentlewoman that this certainly is an amnesty bill. It allows anyone who is here illegally, who can claim to have worked the equivalent of 13 40-hour weeks over 2 years, legal status, amnesty. The documentation can be as little as having a friend vouch for them.

Ms. JACKSON LEE. Will the gentleman yield?

Mr. MCCLINTOCK. Madam Speaker, I yield to the gentlewoman from Texas.

Ms. JACKSON LEE. Let me say that we can respect each other's differences, and I thank the gentleman for explaining that. Amnesty is not related to people working to earn their status, and that is what this bill does, just as the DACA bill does. They earn their status.

Mr. MCCLINTOCK. Madam Speaker, reclaiming my time.

This only applies to illegal aliens. If you are legally here, obeying our laws, you are out of luck with this bill. What this bill says is, if you are here illegally and can have a friend vouch for you that you worked 1,000 hours over the last 2 years in agriculture—again, that is the equivalent of 13 40-hour weeks—you get legal status.

This is one of the many reasons why we are seeing this response from around the world now flooding our southern border.

Madam Speaker, I am pleased to yield 3 minutes to the gentlewoman from Indiana (Mrs. SPARTZ).

Mrs. SPARTZ. Madam Speaker, I thank the gentleman for yielding.

Madam Speaker, it is unfortunate that Congress cannot have a serious conversation about immigration because we do actually have a real problem. We have a real crisis at the border. It is a humanitarian crisis, the Wild West. We are a country of laws.

We have a problem with illegal immigration. It needs to be streamlined to better serve our national interests. We have problems with visa processes, and we can do better.

But, unfortunately, we are passing a lot of bills that probably will not see the light of day in the Senate, that are not going to become legislation. We do grandstanding drama and constant rhetoric, and it is very unfortunate for me because the American people are tired of our institution not doing its work, because we are policymakers and we are legislators and we have to work on policy, not on political drama.

So as a member of the Subcommittee on Immigration and Citizenship, I encourage my colleagues to actually start working in committees on legislation, not sending legislation from the Speaker's office to the floor, but actually have reforms and work at it because our people deserve it and our people deserve to have a branch that works for the people, not having the executive and judicial branches doing our functions.

So I hope we will have some very constructive and serious conversation on immigration, and I would be happy to help with it, but these piecemeal approaches are not going to work and are not good for our country.

Mr. NADLER. Madam Speaker, I yield 2 minutes to the gentleman from Idaho (Mr. SIMPSON).

Mr. SIMPSON. Madam Speaker, I thank the gentleman for yielding.

Madam Speaker, I rise today in support of the Farm Workforce Modernization Act.

For years, my constituents have been asking me to fix our Nation's broken immigration system. They have told me that the shortage of legal workers in agriculture is wreaking havoc on our farmers in rural communities.

That is why I joined with my good friends, Representatives NEWHOUSE, DIAZ-BALART, and LAMALFA to come up with a bipartisan solution to this problem. Along with Chairwoman LOFGREN and other Democratic colleagues, we crafted a bill to create a merit-based agricultural immigration system for our Nation's food producers, and make much-needed reforms in the H-2A program.

But don't just take my word for it. There are over 250 agricultural industry groups from all across America that have written to Congress to support this bill. From potatoes and dairy in my district to citrus and strawberries in Florida and California, growers agree that this bill is good for agriculture and good for our country.

But I want to take a moment to address the current situation on our southern border. What is happening there is a crisis and we must address it. We all realize that. Unfortunately, years of congressional inaction has made "immigration" a toxic word. This bill is not about what is happening on the border, but that seems to be what all of the debate is about—

what is happening at the southern border.

This bill is not amnesty. It does not grant anybody amnesty. It allows individuals to get right with the law and to become part of the legal workforce in the United States. It is about providing a stable legal workforce for the people who put food on our tables.

This isn't a perfect bill. No one would agree that it is. But it is a very good compromise that actually gives us a chance to solve a real problem for our constituents. That is why I came to Congress, to do those things, and I urge my colleagues to support this legislation.

Mr. MCCLINTOCK. Madam Speaker, no one disputes that this bill is a huge windfall to big agriculture. The problem is that it comes at the expense of American workers.

Madam Speaker, I reserve the balance of my time.

Mr. NADLER. Madam Speaker, I yield 1½ minutes to the distinguished gentlewoman from Texas (Ms. ESCOBAR).

Ms. ESCOBAR. Madam Speaker, I thank the chairman for yielding.

I will be very clear, Madam Speaker. Farmworkers do back-breaking work under the scorching sun or unbearable cold to make sure that all of us have food on our table. Whether they are sick, feeling well, whether they have family members who are not feeling well, they go to work to make sure we have what we need, even, and almost especially, during the era of COVID.

It is incredible that anyone would stand in the way of having these incredible people finally have a pathway to legalization.

The Farm Workforce Modernization Act is a piece of legislation that is long overdue. I have one thing to say to those who would oppose legislation for this population, even though they benefit from the labor of this population: "they don't have shame," "no tienen vergüenza."

Mr. MCCLINTOCK. Madam Speaker, I yield 4 minutes to the gentleman from Wisconsin (Mr. TIFFANY).

Mr. TIFFANY. Madam Speaker, while chaos reigns on the border, we have another Democrat jam job before us today.

I would turn to the committee ranking member, the gentleman from California (Mr. MCCLINTOCK), for a colloquy.

Did the gentleman see these bills in the committee?

Mr. MCCLINTOCK. Will the gentleman yield?

Mr. TIFFANY. Madam Speaker, I yield to the gentleman from California.

Mr. MCCLINTOCK. Not this session, no.

Mr. TIFFANY. Madam Speaker, reclaiming my time.

These bills did not come before this committee. For someone like myself, who has just joined the committee, I did not even have a chance to be able to partake in this bill.

I wanted to express concerns especially about the H-2A provision in this bill because I am familiar—there is a parallel to the J-1 visas that we use in northern Wisconsin in the resort area. They are temporary visas. And what we found over the years as employers is that people would figure out how to use the J-1 visa to get into the country, and then go job shopping from there.

The H-2A is susceptible to the same thing. And due to lax enforcement, we could all live with it if there was good enforcement in America, but there is not good enforcement of our laws here in the United States.

So let's cut to the chase here. The gentleman from California touched on this very well. These bills devalue American workers' labor.

In 2019, the greatest increase in wages for people who are in the lower income brackets happened, the greatest increases in decades.

I just say to all of those working-class Americans out there: Make no mistake, these bills today are another clear message that you are viewed as replaceable.

□ 1500

Mr. NADLER. Madam Speaker, I yield 1 minute to the gentlewoman from California (Ms. PELOSI), the distinguished Speaker of the House.

Ms. PELOSI. Madam Speaker, I salute the gentleman for the excellent work of his committee, bringing this important legislation, H.R. 1603, the Farm Workforce Modernization Act, to the floor. I thank the chairman for this critical victory for farmworkers and growers, who have come together in support of this legislation, this legislation which ensures that America can continue to feed the world.

Thank you to Chair ZOE LOFGREN, chair of the Subcommittee on Immigration and Citizenship, for her years of relentless leadership on behalf of farmworkers, without which this bill would not be possible. I sang her praises earlier as a former teacher of immigration, immigration lawyer, and chair of the Subcommittee on Immigration and Citizenship. She knows of what she legislates.

I think that it is clear to see there are a number of Californians involved in this. I want to salute Mr. COSTA and Mr. CARBAJAL, who are an important part of this. They represent farmland in California. They know the needs of the workers. They respect the involvement of the growers.

This, again, is a wonderful bill. We salute many Members, representing every corner of the country, whose vision and values have strengthened this bill that has truly been a caucus- and Congress-wide effort.

Thank you to the United Farm Workers for their outstanding organizing which made this possible. In addition to our work internally, their outside mobilization is so important.

We are also inspired by the immortal words of our beloved Dolores Huerta:

"Yes, we can," "Si, se puede." Yes, we can; yes, we will; and, yes, we are doing it. It was an honor last year at this time to celebrate her 90th birthday in the Rayburn Room, the last event we had before COVID took over. So here we are a year later. This is probably a better celebration.

Passing the Farm Workforce Modernization Act and doing so on a bipartisan basis was a source of pride in the last Congress, and it is now. With a Democratic majority in the Senate and President Biden in the White House, when we pass it again, it is with better assurance that it will become law.

The bill honors the millions of farmworkers who are the backbone of our economy, quietly persevering through harsh working conditions and low wages as they power the farm economy and put food on our tables.

As the U.S. Conference of Catholic Bishops has written:

Recognizing the dignity of work of farmworkers and their families is a central concern.

Farmworkers produce the food that we eat and contribute to the care of our community.

This legislation, while long overdue, is urgently needed now, in light of the coronavirus crisis, which is forcing our essential farmworkers to live and work under a cloud of fear and uncertainty about their health and their jobs.

At the same time, the pandemic has accelerated a labor crisis in the farm economy that endangers farmers and producers and requires action. This action today is an agreement between the growers and the farmworkers.

This legislation supports workers and the farm economy with strong, smart reforms.

This bill provides a path to legalization for more than one million currently undocumented farmworkers. No one who works to feed our country should be condemned to permanent second-class status.

This bill establishes the agricultural workforce of the future by modernizing the H-2A initiative to ensure that farms have stable, secure workforces.

Critically, it demands fair, humane treatment for farmworkers by securing fairness in pay, improving access to quality housing, and ensuring robust safety and heat illness protections.

Any of us who have visited farmworkers in the fields—and some of our Members have been farmworkers themselves or children of farmworkers—know the environment, the heat, the chemicals, and the rest, are a challenge.

This legislation is a critical step forward for our workers, for our growers, and the farm economy, but our work is not done.

Congress will continue to stabilize the farm economy, protect workers and families, and maintain America's agricultural preeminence in the world.

Under the leadership of President Biden, we will continue our work to fundamentally, fully fix our broken immigration system so that we can honor

America's proud immigrant heritage and advance a better future for all.

Earlier, I quoted President Reagan. I want to do so again more fully. Earlier, when I spoke on the floor about Dreamers, I did so for 8 hours and 6 minutes. I promised earlier today to be shorter, and so I didn't give as much of President Reagan's speech.

This is what he said: "And since this is the last speech that I will give as President, I think it's fitting to leave one final thought, an observation about a country which I love."

He went on to talk about the Statue of Liberty, Madam Speaker. He said: "The torch of Lady Liberty symbolizes our freedom and represents our heritage, the compact with our parents, our grandparents, and our ancestors. It is that lady who gives us our great and special place in the world. For it's the great life force of each generation of new Americans that guarantees that America's triumph shall continue unsurpassed into the next century and beyond. Other countries may seek to compete with us; but in one vital area, as a beacon of freedom and opportunity that draws the people of the world, no country on Earth comes close."

As I said earlier, he said: "This, I believe, is one of the most important sources of America's greatness. We lead the world because, unique among nations, we draw our people—our strength—from every country and every corner of the world. And by doing so we continuously renew and enrich our Nation. While other countries cling to the stale past, here in America we breathe life into dreams. We create the future, and the world follows us into tomorrow. Thanks to each wave"—President Reagan said—"Thanks to each wave of new arrivals to this land of opportunity, we're a Nation forever young, forever bursting with energy and new ideas, and always on the cutting edge, always leading the world to the next frontier. This quality is vital to our future as a Nation. If we ever closed the door to new Americans, our leadership in the world would soon be lost."

This being the last speech that I will give as President, President Reagan said, "I think it's fitting to leave one final thought, an observation about a country which I love."

As we remember the words of President Reagan, I also recall the words of the late Cesar Chavez, whose birthday we celebrate later this month. He said: "To make a great dream come true, the first requirement is a great capacity to dream; the second is persistence."

Thanks to all of our bipartisan Members for their persistence on this legislation for which I urge a strong bipartisan "aye" vote.

Mr. McCLINTOCK. Madam Speaker, I would remind this Speaker that Cesar Chavez was one of the most outspoken adversaries to illegal immigration, precisely because he knew what that did to depress the wages of the legal immi-

grants that he represented through the United Farm Workers.

I yield 1 minute to the gentleman from Pennsylvania (Mr. THOMPSON), the ranking member of the Committee on Agriculture.

Mr. THOMPSON of Pennsylvania. Madam Speaker, as Republican leader of the House Committee on Agriculture, I have the opportunity to speak with producers nationwide, and, overwhelmingly, they say the number one issue facing the industry is the lack of a reliable, legal workforce.

When it comes to farm labor, our immigration system is broken and in desperate need of repair.

The Farm Workforce Modernization Act is a step in the right direction. I will vote "yes" today, but to be clear, the bill is imperfect and must be improved before becoming law.

It will not fully address the shortage of legal agricultural workers and may leave our farmers, ranchers, and especially our dairies, with critical unmet needs.

I filed an amendment that would have addressed these deficiencies that was endorsed by the American Farm Bureau Federation. Though not made in order, I hope that amendment will serve as a starting point in the Senate for necessary improvements.

Americans are blessed with a safe, abundant, and affordable food supply. But how long will that food supply last if we do not have an adequate agricultural workforce?

This may be a once-in-a-generation opportunity to reform our immigration laws. Therefore, we must get it right.

Madam Speaker, if we fail to address the agricultural workforce, we will have food insecurity, and that will lead to national insecurity.

Mr. NADLER. Madam Speaker, I yield 2 minutes to the gentleman from Washington (Mr. NEWHOUSE).

Mr. NEWHOUSE. Madam Speaker, let me be blunt: there is a crisis at our southern border. You have heard about it from my Republican colleagues and I over the past few days. Just this year, more than 200,000 people have illegally crossed our border, including four known terrorists.

We must do something to stop this disturbing trend. The U.S. is a country of law and order. We must continue working to reform our broken immigration laws and enhance our border security.

That is exactly what this legislation will do. The Farm Workforce Modernization Act is a truly bipartisan bill, negotiated over many months by agriculture and labor representatives alike, to ensure those who wish to can come to our country, abide by our laws and contribute to our farms, ranches, and local communities.

The bill creates an employment- and merit-based program for foreign workers to legally work in agriculture, eliminating incentives for illegal migration and strengthening both our national security and our national food supply chain.

This legislation streamlines our H-2A guest worker program, giving employers more flexibility and allowing access for year-round agriculture sectors like dairy and horticulture.

Finally, the bill phases in E-Verify. So, once these laws are in place, we can enforce them and ensure that workers maintain a legal work status.

Madam Speaker, I come from one of the most productive agricultural regions in the world, where many of our crops are labor intensive. As much as producers would prefer to hire American workers to work in their fields, in their orchards, and in their dairies, there simply isn't enough interest among domestic workers to get these jobs done.

For decades, Congress has attempted to pass comprehensive immigration reform to address our agricultural workforce, but we have been unsuccessful. This bill is the targeted, bipartisan solution our farmers and ranchers need.

I want to thank Ms. LOFGREN, Mr. DIAZ-BALART, Mr. SIMPSON, Mr. LAMALFA, and many others. I urge my colleagues to support this bill so we can get it to the President's desk for America's agricultural industry.

Mr. McCLINTOCK. I yield 1 minute to the gentleman from California (Mr. LAMALFA).

Mr. LAMALFA. Madam Speaker, let's acknowledge the reality of what we have right now, a big mess of a situation that hasn't been cured in several decades.

We used to have a system of invited workers, called the *bracero* program. Political battling has caused no new fix in all of this time. Similarly, this bill allows good workers, decent people, to get right with the law, with background checks, with restitution, and requirements to stay right with their ag worker status.

The same bill passed this House through committee last Congress with good bipartisan support. It has benchmarks that must be met by workers who are already here with history in ag, not opening the floodgates to more illegal entry and benefits. More recent entrants are required to remain in ag work for 8 additional years to remain eligible. We have caps in this bill to the current approximately 700,000 workers already here, with capped ratchets if more are needed.

It establishes an E-Verify for ag, with strong biometric screening for all these certified ag workers, something we have never had under E-Verify.

It codifies in law many of the pieces adopted in the Trump administration's H-2A rule, including staggered H-2A and making it much less burdensome for farmers to get these workers, especially dairy, which needs year-round workers and cannot have it now.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. NADLER. Madam Speaker, I yield an additional 30 seconds to the gentleman from California (Mr. LAMALFA).

Mr. LAMALFA. Madam Speaker, what this bill is not is amnesty, even though it may be dismissed as such. Americans have demonstrated they will not step forward to do this work, not with the nonworking benefits they can already access. Frequent anecdotes show that those that might, frequently quit after a few days because the work is too hard, even at dramatically increased wages.

This law does not hand out citizenship or allow anyone to cut ahead in line to apply for it. The same goes for green cards. No express lane for green cards, not even government benefit eligibility.

This is simply a way to get right with the law, have a capped pool of already in-place ag workers with legal status. That is better for the worker, the farmer, and for our system of ID'ing who is in this country currently. It is a vast improvement over what we have now.

□ 1515

Mr. McCLINTOCK. Madam Speaker, I would just point out, the last 30 seconds was on the time of the gentleman from New York. I reserve the balance of my time.

Mr. NADLER. Madam Speaker, I yield 1½ minutes to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Madam Speaker, the Farm Workforce Modernization Act would simply protect our existing farmworkers and perpetuate an enduring farm workforce. It would do that by modernizing and streamlining our H-2A visa system and by allowing those who are willing to come here to stay here if they continue to work here in agriculture.

Now, this bill is a bipartisan bill. It is the right bill because it was a negotiated bill. No, it is not the perfect bill, but it is the necessary bill that was formulated after months and months of difficult talks between Democrats and Republicans and farmers and farmworkers.

Now, during those discussions, unlike what we are hearing today, we put negative politics aside and we focused on the positive policies for the people who are part of the solution to the number one problem for our farmers. We don't have a domestic workforce willing to do ag labor, so farmers are reliant on immigrants to harvest their products.

That is why, if we pass this bill today and the Senate does its job tomorrow, farmers will have a predictable and dependable workforce, farmworkers will get the legality and the dignity that they deserve, and we in Congress will have done our job for our agriculture and for our Nation that both rely on immigrants for our future.

Mr. McCLINTOCK. Madam Speaker, I reserve the balance of my time.

Mr. NADLER. Madam Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. COSTA).

Mr. COSTA. Madam Speaker, I rise to support the bipartisan Farm Work-

force Modernization Act, which is an opportunity to provide meaningful reform that we have been waiting for, for years.

This measure is supported by a bipartisan coalition that includes not only the United Farm Workers and other labor organizations, but a majority of farm organizations across the country. What this is really about is an opportunity to fix a part of a broken immigration system.

I want to thank not only Chairman NADLER, but also Chairwoman ZOE LOFGREN and DAN NEWHOUSE for the hard work that they have done to bring this legislation to the floor, bipartisan support on both sides of the aisle.

Let me begin with the fact that food is a national security issue. It is a national security issue. Less than 5 percent of America's population is directly involved in the production of food and fiber that feeds our Nation. That partnership is between farmworkers and farmers and dairy men and women.

I know because my family represents a third-generation family. Farmworkers are some of the hardest working individuals you will ever meet. I know because I worked side by side for years growing up on my family's farm.

It is simply wrong that they be subject to living and working under a shadow of uncertainty and fear of being deported. That is not right.

This bill is not about the border. The border has been a problem for decades. It is not about amnesty. This is an earned basis to have legal status in America. I have spoken with the hard-working men and women and their young children who work to put food on America's dinner table, and I've seen the hope in their eyes, the hope that we can pass this legislation to provide them legal status, hope for a normal life free of the dread of family separation that too often happens with deportation that hangs over them every day when they go to work, hope for a chance to change their reality and reshape their story.

This measure involves protections. It involves E-Verify. It involves an opportunity to reform an H-2A program for a reliable workforce for American agriculture. We owe it to the individuals who do so much for us. I ask that you support this legislation.

Mr. McCLINTOCK. Madam Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. DAVIDSON).

Mr. DAVIDSON. Madam Speaker, I rise in opposition to this bill.

It purports to solve an important problem for our country's ag workforce, for our ag community, and for food security for our country, but it exploits a bigger problem and a real emergency by creating a gaping hole in our broken immigration system. Rather than address the root issue with our immigration laws, it exploits them.

Frankly, I don't know how many noncitizens some of my colleagues represent. I came here to represent Amer-

ican citizens. This bill disadvantages American citizens, and it disadvantages people who follow our admittedly broken immigration laws and come here legally, and it rewards people who come here illegally.

It is going to exacerbate the humanitarian crisis we see at the border instead of cure it. It is not a remedy; it is a harm. It is a harm to American citizenship, which should be treasured. We do welcome new Americans. We are unequaled in the world. No country welcomes more new citizens per year than the United States of America.

We will continue to be the land of opportunity, but we can only do that if we protect the cherished value of American citizenship. Citizenship matters. We cannot destroy it by adopting these policies. I plead that people oppose it.

Mr. NADLER. Madam Speaker, I yield 2 minutes to the gentleman from California (Mr. RUIZ).

Mr. RUIZ. Madam Speaker, I and the Congressional Hispanic Caucus rise in support of H.R. 1603, the Farm Workforce Modernization Act.

My parents were farmworkers who worked tirelessly day in and day out with calloused hands and tired backs to give me, their children, opportunities that they never had.

Farmworkers like my parents and like many of my constituents back home in the Coachella Valley taught me the value of hard work, resiliency, and taking care of one another.

Farmworkers are getting infected and dying from COVID-19 at a much higher rate than the general public. They are literally dying to feed you, give you the nutrients you need to prevent COVID-19 and to heal from COVID-19.

We must protect and secure our food supply chain. We must pass the bipartisan Farm Workforce Modernization Act to stabilize our food supply chain and ensure that farmers can meet their future labor needs.

The Congressional Hispanic Caucus is proud to work with Chair ZOE LOFGREN and Congressman JIMMY PANETTA, as well as CHC members SALUD CARBAJAL and JIM COSTA, and other Members to get the bill signed into law.

Mr. NADLER. Madam Speaker, I yield the balance of my time to the gentlewoman from California (Ms. LOFGREN).

The SPEAKER pro tempore. The gentlewoman from California will control the time.

Mr. McCLINTOCK. Madam Speaker, I am pleased to yield 3 minutes to the gentlewoman from Minnesota (Mrs. FISCHBACH).

Mrs. FISCHBACH. Madam Speaker, H.R. 1603 subjects H-2A employers to a private right of action in Federal court for the first time ever in the history of the H-2A program. The bill does so by applying the right of action standard in the Migrant and Seasonal Agricultural Worker Protection Act, or MSPA, to H-2A employers.

My motion to recommit today simply provides that when an H-2A employer faces an H-2A-related claim under the MSPA, the employer is provided a right to cure before the claim can proceed. Specifically, the amendment allows the employer to attempt to resolve the alleged violation within 5 days of receiving the complaint. The employer must also file with the court documentation demonstrating that the action giving rise to the complaint has been remedied. After that, the court may dismiss the complaint if it is satisfied that the complaint has been resolved.

Under H.R. 1603, private right of action can include actual damages or statutory damages of up to \$500 per plaintiff per violation, where violations constitute separate provisions. Most claims involve multiple plaintiffs and, in class action, could involve many plaintiffs who didn't even want to be part of the claim. For class action, the court is authorized to award the lesser of up to \$500 per plaintiff per violation or up to \$500,000. In other words, liability under MSPA could be half a million dollars.

Especially in the case of a fabricated claim or an unintended violation, this could be financially devastating for farmers. Costs like these to agricultural employers on top of attorneys' fees, court fees, and awards pursuant to other claim avenues should be taken seriously. They can be significant burdens on employers who did not knowingly or purposefully violate H-2A requirements.

At the very least, we should allow our growers the opportunity to remedy a potential violation before they are hit with a huge penalty. Today's motion to recommit would do just that. If the purpose of filing a complaint is to seek redress, then this amendment provides a reasonable path forward.

I am sure that those whose purpose it is to subject employers to additional claims, frivolous or otherwise, will oppose my amendment, but those who understand the importance of helping U.S. farmers in the face of constant and growing competition from foreign agricultural operations without our high labor standards understand how reasonable a right to cure is.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. McCLINTOCK. Madam Speaker, I yield an additional 1 minute to the gentlewoman.

Mrs. FISCHBACH. Madam Speaker, my amendment would retain the ability of H-2A workers to obtain redress, but would provide important protection for growers, too.

Madam Speaker, if we adopt the motion to recommit, we will instruct the Committee on the Judiciary to consider my amendment to H.R. 1603 to provide a commonsense right to cure for our Nation's farmers, who will be subject to burdensome litigation under this underlying bill.

Madam Speaker, I ask unanimous consent to include the text of the

amendment in the RECORD immediately prior to the vote on the motion to recommit.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Minnesota?

There was no objection.

Ms. LOFGREN. Madam Speaker, may I inquire how much time remains on both sides?

The SPEAKER pro tempore. The gentlewoman from California has 9 minutes remaining. The gentleman from California has 5½ minutes remaining.

Ms. LOFGREN. Madam Speaker, I yield 2 minutes to the gentleman from Texas (Mr. CUELLAR).

Mr. CUELLAR. Madam Speaker, farm work is hard work. Both of my parents, Odilia and Martin, were farmworkers. It is very hard work. It is one of those type of jobs that is very necessary to make sure that we bring food to the table.

I represent several areas that are rural, and my ranchers and my farmers need an ag work program. It has to. They need it. I have always said, if an American wants the job, let them have that job. But if they are not going to fill that position, then we need to have a guest worker plan, just like we did during World War II, where we did the Bracero program. Therefore, we need to support this for our ranchers and our farmers.

I will tell you this, it is not amnesty. What Ronald Reagan did in 1986, that was amnesty. This is not amnesty. And if you want to talk about border security, this will help secure the border.

Let me explain. If you have people who will come into a secure system to come work, and then they go back, then you can have Border Patrol focus on the people who have the bad motives, the people who want to bring in drugs, the people who want to smuggle or traffic people. So this actually will help border security if we set this up right, like they did in World War II.

Madam Speaker, I ask Members to support this program. It is needed by our farmworkers. We need to do it.

Madam Speaker, I want to thank Chairwoman ZOE LOFGREN and Mr. NADLER for their work.

Mr. McCLINTOCK. Madam Speaker, may I inquire of my friend from California if she has any additional speakers?

Ms. LOFGREN. No, I do not.

Mr. McCLINTOCK. Madam Speaker, I yield myself the balance of my time.

Just yesterday, the Secretary of Homeland Security told the Homeland Security Committee that the border is secure. The Secretary said the border is secure, despite saying only 1 day earlier that the Department of Homeland Security is on pace to encounter more individuals on the southwest border than we have in the last 20 years.

He said the border is secure, despite a 590 percent increase in the number of family units crossing the border in the first 6 weeks of the Biden administration.

He said the border is secure, despite Customs and Border Protection referring over 7,300 unaccompanied alien minors to the Department of Health and Human Services during the month of February. That is the highest number of referrals in any February in the history of the program.

□ 1530

He said the border is secure despite the Biden administration's plan to use the Dallas Convention Center to house thousands of the unaccompanied minors who the cartels have smuggled across the border.

No matter what Secretary Mayorkas says, the fact is the border is not secure, and it is not secure because of President Biden's dangerous immigration policies.

We know that when foreign nationals think they can easily get into the U.S. and be rewarded with legal status, which is what this bill does, they flood the border.

We are watching that happen before our eyes. Aliens are flooding the border in response to the President's rhetoric and policies and in response to the promises of additional rewards made through bills like this.

Talk of amnesty fuels border crossings. That is a fact.

This bill grants amnesty and a special path to U.S. citizenship to at least 1 million farmworkers currently in the United States. I have seen estimates that go up to 2½ million—nobody really knows—as well as to their spouses and children.

This bill allows aliens to get green cards even if they illegally reentered the U.S., committed immigration fraud, voted illegally in a Federal or State election, or have two serious misdemeanor convictions.

The supporters of this bill claim that illegal aliens who get green cards must work in agriculture. However, the bill includes broad waiver authority that allows those who did not complete all the work requirements because of weather conditions or COVID or if the alien was fired, among other situations, to still get a green card.

Those legalized under this bill would, from the outset, compete directly for jobs with Americans. Nothing in this bill prevents those who get employment authorization during the initial process from working in non-agricultural labor sectors. And of course, once they and their family members get a green card, as provided under this legislation, they are free to work wherever they want.

This bill sends a powerful message and an invitation to those who cross our borders illegally that they can expect to be rewarded with legal status and, ultimately, green cards and an expedited path to citizenship.

But far worse than that, it floods our market with low-wage labor at a time when Americans are struggling to recover from the devastating lockdowns that have crushed the dreams of so many working families.

I will end as I began. The people who were most helped by the economic expansion that we saw were working-class Americans because the Trump administration got control of our borders and stemmed the flow of this illegal labor.

They made the greatest gains during the expansion; they have been the most harmed during the lockdowns; and this adds to their burdens and woes by ensuring that the market for their skills and labor will remain stagnant for a decade to come.

Please don't do this to those good Americans in this perilous time for our country.

Madam Speaker, I yield back the balance of my time.

Ms. LOFGREN. Madam Speaker, I yield myself the balance of my time.

There has been a lot of rhetoric today about the border, and I think it is important to address some of it.

First, let's get the facts straight. The uptick in apprehensions at the southern border began in April 2020, last year, long before we knew President Biden was even going to become the Democratic nominee, much less the President.

During the pandemic, the Trump administration did something that troubled me a great deal and that I objected to. They ignored the Trafficking Victims Protection Act. That was a bipartisan bill. Congressman CHRIS SMITH from New Jersey was the lead on the Republican side. I worked on it on our side along with others. It had a very precise protocol for what to do when an unaccompanied child presented at the border, a potential trafficking victim.

Instead of following that protocol, the prior administration would simply take that child, an 11- or 12-year-old little girl, and turn her back into Mexico, not knowing what would happen to her.

Now, those children who have been in squalid camps for the last year are being addressed pursuant to the Trafficking Victims Protection Act. It is correct that we have had more children present than we were prepared to deal with, and there was a scramble to take care of those children properly. But it has nothing to do with the Farm Work Modernization Act.

I listened with some interest to the suggestion that there needs to be a change in the Migrant and Seasonal Agricultural Worker Protection Act provisions of this bill. Currently, H-2A employers must comply with the H-2A program requirements, which largely meet or exceed MSPA. The primary difference is that the DOL stands in the place of the foreign farmworker in bringing forward cases of alleged violation of the H-2A program.

The Fair Labor Standards Act and a number of other Federal and State laws apply to the H-2A program, but it is worth noting that any H-2A employer that employs one or more domestic workers who perform seasonal

or temporary agricultural work is already covered under MSPA, and that would be close to like all employers. This bill would formally place all employers of H-2A workers under MSPA, impacting only those who hire no domestic employees.

The idea that there needs to be a right to cure has merit, except it is already addressed in this bill because it requires mandatory mediation. If there is a problem that can be fixed, it will be fixed in the mediation system. That is quite new.

The other thing to point out is that there are no attorney's fees provided for in the bill or in MSPA, so the idea that somehow this is a windfall for the trial bar is simply incorrect.

There is a great Q&A truth setting in a publication called Hoard's Dairyman, "What the Farm Workforce Act could mean." I include the article in the RECORD.

[From Hoard's Dairyman, Mar. 15, 2021]  
WHAT THE FARM WORKFORCE ACT COULD  
MEAN

(By Bob Gray)

The Farm Workforce Modernization Act, bipartisan bill H.R. 1603, was reintroduced this week by Congresswoman Zoe Lofgren (D-Calif.) and Congressman Dan Newhouse (R-Wash.). It could be taken up by the full House this week.

Here are some additional details about the bill. Most of this information came from the four Republican leads—Representatives Dan Newhouse (R-Wash.), Mike Simpson (R-Idaho), Mario Diaz-Balart (R-Fla.), and Doug LaMalfa (R-Calif.). Before reading further, I want to reiterate, however, that this is a bipartisan bill with support from both sides of the aisle.

The Farm Workforce Modernization Act (FWMA) expands the current H-2A seasonal worker program to include full-time, year-round workers for dairy and other agricultural businesses.

The bill is not perfect, but it is a very good start in providing an extremely important piece of the legislative reform needed by dairy farmers. Right now, as you all know, we have no program. We have never had an immigration worker program in the past.

When the bill goes before the House next week, you will hear various pros and cons about it in the press. Therefore, I thought it would be useful to include a "Facts and Myths" sheet about the legislation so you can fully understand its provisions and not be misled by information that is incorrect.

THIS IS WHAT THE FARM WORKFORCE  
MODERNIZATION ACT DOES

Simplifies H-2A by reducing duplicative paperwork—only one filing needed instead of three.

Bureaucracy is reduced even further for many farmers with staggered labor needs. Farmers can file one petition for the entire season, allowing for staggered entry of H-2A workers.

Modernizes recruitment by allowing employers to post job openings on an online job registry. No classified ads are required.

Reduces labor costs by freezing wages for one year and capping wage growth thereafter. The adverse effect wage rate is replaced in later years.

Makes available 60,000 year-round H-2A visas over the first three years, growing annually by 12.5%. Dairy is guaranteed at least half of these visas, and any unused visas are available for other agriculture industries.

Stabilizes the existing workforce by giving legitimate farmworkers a chance to get a five-year Certified Agriculture Worker (CAW) visa to work in U.S. agriculture. As long as the worker continues to meet minimum days in agriculture annually, the worker can continue to work in the U.S. with unlimited five-year renewals. CAWs can cross the border as they need without restriction.

CAWs can earn the opportunity to apply for a green card by paying a penalty and continuing to work in agriculture for at least eight years. If a CAW can prove 10 years of prior work in agriculture, they can apply for a green card after four years.

#### MYTHS AND FACTS

MYTH: This bill will codify wage surveys into law and result in multiple wage classes. Under this bill, wages will be much higher than the current Adverse Effect Wage Rate (AEWR).

FACT: This bill provides for greater certainty and granularity in wages. First, this bill applies a one-year freeze of wages across all categories at the current year's rate. After the one-year freeze, all wage rates are then limited in any increases year over year to 3.25% with the ability to decrease 1.5%. (Exception: If the resulting wage is less than 110% of the federal or state minimum wage, then the wage could increase an additional percentage point to 4.25%.) After year 10, the AEWR requirement ends, and the Secretaries of Agriculture and Labor must develop a new wage standard with input from stakeholders. If Congress fails to act to control and reform AEWR, some estimates have shown AEWR rates could rise 7% to 8% annually in the coming years.

MYTH: Adjusted workers are treated immediately as U.S. workers, thus requiring employers to hire them. This displaces previous H-2A workers.

FACT: This bill includes a provision that allows employers to prioritize their longtime H-2A workers over new Certified Agriculture Workers (CAWs). CAWs have a requirement to work in agriculture that no domestic worker has. Because of that requirement and proven experience in agriculture work, CAWs do receive preference over new foreign agriculture workers. There is no expansion of the current workforce; CAW workers are already here and working in agriculture. The bill eliminates the legal chaos farmers and workers face today.

MYTH: This bill does not allow agricultural associations to file as agents on behalf of their members.

FACT: This bill does not affect the ability of associations to file as agents. The bill allows associations to file as agents, or as a joint or sole employer of workers.

MYTH: This bill provides no relief for dairies or year-round agriculture.

FACT: This bill creates year-round access to the H-2A program for dairy and other agricultural sectors that desperately need workers but have previously been unable to utilize the program. Without this bill, year-round agriculture has no access to a legal foreign workforce.

MYTH: This bill would create new funding for the Legal Services Corporation.

FACT: There is no new funding in this bill for the Legal Services Corporation.

MYTH: This bill requires farmworker housing to meet Occupational Safety and Health Administration (OSHA) standards.

FACT: Farmworker housing is already required to meet OSHA standards, and DOL requires annual approved inspections before approving a certification. The bill makes no changes to that requirement, and in fact, reduces the inspection to every two years. The bill provides \$11 billion in additional funds to



offset costs for grower-provided and other farmworker housing.

MYTH: This bill establishes a new bureaucratic complaint/investigation process that allows anyone to file a complaint.

FACT: There is no new process established in this bill. It simply codifies existing regulations.

MYTH: The bill requires more reporting on employer recruitment efforts.

FACT: There are no additional reporting requirements in this bill, and requirements for recruitment efforts have been simplified and modernized.

MYTH: This bill creates a new private right of action for H-2A workers under the Migrant and Seasonal Agricultural Worker Protection Act (MSPA).

FACT: Currently, H-2A employers must comply with the H-2A program requirements, which largely meet or exceed MSPA. The primary difference is that DOL stands in the place of the foreign farmworker in bringing forward cases of alleged violations of the H-2A program, the Fair Labor Standards Act (FLSA), and a number of other federal and state laws. In addition, any H-2A employer that employs one or more domestic worker who performs seasonal or temporary agricultural work is also currently covered under MSPA. The bill would formally place all employers of H-2A workers under MSPA (impacting only those who currently hire no domestic employees for seasonal or temporary work) while creating a new mandatory mediation requirement for any claim not just filed under MSPA but extended it to claims under the H-2A program and FLSA. Mandatory mediation could help reduce litigation costs and attorney fees for growers, in part by resolving frivolous claims before reaching the court room.

MYTH: This bill gives workers up to two years to file a legal claim against an employer, even after the worker has returned to their home country.

FACT: Under current statute, H-2A workers already get this. There is nothing new in this bill. Many state-based claims have longer statute of limitations.

MYTH: This bill gives the Department of Labor (DOL) a new ability to sue on behalf of employees.

FACT: Under the Fair Labor Standards Act (FLSA), DOL already has this ability. There is nothing new in this bill.

MYTH: To overcome a denial of labor certification, this legislation places the burden of proof on employers to show that domestic workers were turned away for lawful reasons.

FACT: Nothing new is in this bill. This provision already exists under current law.

MYTH: This bill permits very limited appeals and does not grant de novo appeals of denials or Notice of Disagreement (NOD).

FACT: This bill allows employers to quickly fix application deficiencies, as with current law. The bill, however, improves this process by creating a new emergency procedure for farmers so issues are fixed faster and workers are not delayed. It also allows for post-certification modifications.

MYTH: This bill establishes a new requirement for employers to provide housing for domestic workers outside of a 50-mile distance.

FACT: The bill does not change any current housing requirements. As with current law, the requirement to provide housing applies only to U.S. workers who live outside of the normal commuting distance for the area.

MYTH: The bill makes no meaningful reform to the high housing costs in the H-2A program.

FACT: The bill makes historic investments in farmworker housing while reducing employer costs in providing such housing, in-

cluding to H-2A workers. The bill provides \$1 billion to rehabilitate existing housing, triples federal funding for USDA Section 514/516 rural housing and grant programs, and doubles funding for the Section 521 rental assistance program. The bill also reduces the cost of providing housing to H-2A workers by making operating assistance subsidies available to 514/516 property owners who house H-2A workers.

MYTH: Mandatory E-Verify just for agriculture means thousands of year-round employers will have no access to labor whatsoever.

FACT: This bill provides a way for the current workforce to get right with the law, which means they would be compliant with E-Verify. As noted above, the bill provides employers with two avenues for hiring new year-round workers. The E-Verify requirement would only apply to new hires and is phased in, beginning three years after enactment.

MYTH: Illegal farmworkers, their spouses, and all their dependents are provided a special, expedited path to legal, permanent residence and will move out of agriculture and into other jobs in the economy.

FACT: This bill does not create an immediate path to permanent residence. First, it creates a temporary legal status that can only be renewed with significant agricultural work. Second, the bill provides the option of earning permanent residence through continued agricultural work, but it would take at a minimum five to 10 years to earn such status, depending on the amount of past agricultural work the worker could demonstrate. These significant past and future work commitments would ensure the stability of American agriculture for years to come. Spouses and dependents receive the same protections that currently exist in the H-2A program.

MYTH: The bill puts AEWR into law after 2029 with no increase or decrease in caps. Keeping the AEWR for another 10 years and preserving it in statute means employers will see no relief.

FACT: After year 10, the AEWR requirement ends, and the Secretaries of Agriculture and Labor must develop a new wage standard with input from stakeholders.

MYTH: The bill provides new authority for the DOL to award back wages, penalties, and damages and/or to debar employers from the program for five years or permanently.

FACT: The DOL already has authority to temporarily debar bad actors. This bill would give the DOL new authority to permanently debar individuals who have previously been debarred and are habitual violators of the program's requirements.

Ms. LOFGREN. We have labored long and hard, those of us in our bipartisan group that worked to solve a problem that our country has, which is we need a stable workforce in the agricultural sector.

I thank last year's chairman of the Agriculture Committee, Collin Peterson, for the work that he did on this bill; this year's chair who also supports this bill, Mr. SCOTT; as well as the ranking member who said that he would vote for it even though there are some things he would like to change. It is a compromise, and it was worked on for almost over a year to get to this point.

We believe that having a legal workforce in agriculture that will give stability is not only good for those workers, but it is good for their employers, and it is good for America.

We believe that making sure that there is a future flow of a legal workforce not only into farms but now into dairy is good for America because we think immigration ought to be legal. It ought to be regularized. It ought to be orderly. That is what this bill would accomplish.

Finally, there has been a lot of talk about enforcement. This bill has enforcement in it. When the bill is implemented, we will have a strategy in a legal way to meet the needs of agriculture in America. If we have that as law, we ought to enforce that law. That is why, on a bipartisan basis, we agreed that E-Verify ought to be applied to this whole sector.

This is a package that will make America stronger. It is fair to farmworkers. It is fair to farmers. And it is good for America. I hope that people will vote for it on both sides of the aisle. So many of us worked together to bring it to this point.

Madam Speaker, I yield back the balance of my time.

Mr. SCOTT of Virginia. Madam Speaker, farmworkers toil under difficult and dangerous conditions for long hours and low pay to ensure America has a safe and plentiful food supply.

Because of the scarcity of domestic farm labor, for decades, the agricultural sector has depended largely on the labor of migrant workers. The vast majority of crop workers in the United States were not born here and are undocumented or here on guest visas. Though these workers perform incredibly difficult work under hazardous conditions, they are often unable to seek recourse when their rights are violated. A pathway to citizenship, when accompanied by appropriate oversight measures, could help reduce these dedicated workers' justifiable fear of reprisal for asserting their rights. Farmworkers are integral to our communities and our economy. Creating a pathway to citizenship for these individuals—who work to feed us and our country year after year—as well as their families is both an economic and humanitarian necessity.

I support legalization of vulnerable, undocumented workers and a path to citizenship. However, in exchange for legalization for some undocumented farmworkers, this bill would depress labor standards for H-2A workers. Because weakened labor standards for H-2A workers could adversely impact the domestic workforce, this bill could negatively impact the economic security of all farmworkers.

Wage cuts for many H-2A workers in turn would depress wages for all farmworkers. The adverse effect wage rate (AEWR), which is often the binding wage paid to H-2A workers, is designed to ensure that wages paid to H-2A workers do not depress wages for U.S. farmworkers. This means the AEWR must be high enough to reflect wages paid in the local labor market. This bill would change the way the AEWR is currently calculated over the first ten years to reflect average wages paid to farmworkers in the region according to their specific occupation, rather than the average wage paid to farmworkers across all occupations. However, the bill fails to require the use of data that actually reflects local wage conditions. Additionally, while setting limitations on how much AEWR wages can decrease after

an initial one-year freeze, the bill imposes caps on wage increases from year to year, limiting whether AEWR can truly reflect wages paid in the local labor market.

As a result of these changes to the AEWR, the majority of H-2A workers would see their wages actually go down, albeit modestly, while others would see the growth in their wages capped. I have opposed similar efforts proposed by the Trump Administration that would depress wages.

This year, I was pleased to lead House efforts to include an increase to the federal minimum wage in the House-passed American Rescue Plan (H.R. 1319). While those minimum wage provisions did not ultimately survive Senate budget reconciliation rules, I will continue to push for H.R. 603, the Raise the Wage Act, which would gradually raise the federal minimum wage to \$15 per hour by 2025. I am confident that in the next ten years, we will enact a meaningful increase in the federal minimum wage, boosting wages for workers across our nation—including farmworkers. However, I am concerned that H.R. 1603, Farm Workforce Modernization Act of 2021, will create artificial barriers to wage growth, or worse, lead to wage cuts, continuing to leave farmworkers relegated to low pay and economic insecurity.

Our country's wage and hour laws are designed to ensure that workers are guaranteed a fair day's pay for a fair day's work. But this right is only as strong as a worker's ability to hold employers accountable, especially in court. Unfortunately, this bill creates obstacles that may delay farmworkers' ability to access their day in court, when they have been victims of wage theft. While I welcome extending coverage of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) to H-2A workers, adding a mediation requirement to both the MSPA and the Fair Labor Standards Act (FLSA) is problematic. This bill enables employers to impose three months of mandatory mediation when an H-2A worker brings a civil suit under these laws, even if the worker does not consent to the mediation and wants his or her day in court. This undermines the voluntary nature of mediation and provides bad actors with an avenue for delaying or denying wage recovery. This delay could prove significant for farmworkers who may be in this country for a limited amount of time to participate in litigation. This is especially fraught given that, in contrast to MSPA, the FLSA provides for recovery of unpaid wages and liquidated, or double, damages and recovery of attorney's fees, plus costs. This provision may also pull domestic farmworkers or other visa classifications of workers into required mediation where there are collective or class actions, thereby undermining incentives for other workers to join with H-2A workers to seek redress.

Last Congress, I supported the passage of H.R. 1423, the FAIR Act, to ban forced arbitration in many areas, including employment, because it could delay or totally block workers' access to courts. We should promote legislation that protects workers' fundamental right to have their day in court, not delay it.

This bill denies newly legalized farmworkers and their families access to key social safety net programs. Denial of benefits that can promote economic stability, coupled with the bill's wage suppressing provisions, threatens to create a long-term pool of economically vulner-

able workers. While most of these individuals do not currently have access to these benefits due to their immigration status, leaving immigrant workers who are granted legal status under this legislation without access to social safety net programs establishes a dangerous precedent that access to health care and other basic necessities can be traded away for a path to legal status.

This legislation weakens the current recruitment and hiring standards for U.S. farmworkers. A reduction in employers' obligations to hire U.S. workers under this bill will undermine one of the core principles of the H-2A program: that H-2A workers should fill in gaps in the farm workforce that U.S. employers are truly unable to fill, rather than merely replacing U.S. workers that employers could attract with reasonable efforts. I raised concerns with similar efforts to modify recruitment standards by the Trump Administration in 2019.

Agricultural work is hazardous, and workers in this sector have few legal health and safety protections. Ensuring that H-2A workers and all farmworkers have safe, healthy working conditions is critical. I am pleased that this bill requires H-2A employers to maintain heat illness prevention plans and requires H-2A employers in the dairy industry to maintain workplace safety plans. However, as presently written, some provisions are ambiguous and would be difficult to enforce; other provisions have weak minimum requirements that would limit their value. As this legislation moves forward, I would urge the inclusions of stronger health and safety standards.

Strong labor protections are vital to protect both H-2A workers, who are vulnerable given their temporary status, and domestic farmworkers, whose employers may be disincentivized to provide employment. This is especially true given that farmworkers have historically been carved out of labor and employment laws, leaving these workers with fewer wage protections and rights to bargain for better working conditions.

While this bill does make some improvements in immigration law, I look forward to supporting a version of this bill that more accurately reflects strong labor standards.

The SPEAKER pro tempore. Pursuant to House Resolution 233, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

#### MOTION TO RECOMMIT

Mrs. FISCHBACH. Madam Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mrs. Fischbach moves to recommit the bill H.R. 1603 to the Committee on the Judiciary.

The material previously referred to by Mrs. FISCHBACH is as follows:

At the end of section 204(b), add the following:

(4) RIGHT TO CURE.—If an H-2A worker files a civil lawsuit alleging a violation under the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.), an agricultural employer may, not later than 5

days after receiving service of the complaint, file with the court documentation demonstrating that the action giving rise to the complaint has been remedied. The court may dismiss such complaint if satisfied that the complaint has been resolved.

The SPEAKER pro tempore. Pursuant to clause 2(b) of rule XIX, the previous question is ordered on the motion to recommit.

The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mrs. FISCHBACH. Madam Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. Pursuant to section 3(s) of House Resolution 8, the yeas and nays are ordered.

Pursuant to clause 8 of rule XX, further proceedings on this question are postponed.

Pursuant to clause 1(c) of rule XIX, further consideration of H.R. 1603 is postponed.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which the yeas and nays are ordered.

The House will resume proceedings on postponed questions at a later time.

#### PROTECT DEMOCRACY IN BURMA ACT OF 2021

Mr. MEEKS. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1112) to require a report on the military coup in Burma, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1112

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Protect Democracy in Burma Act of 2021".

#### SEC. 2. FINDINGS.

Congress finds the following:

(1) On March 14, 2005, the House of Representatives agreed to H. Res. 135, which established the House Democracy Assistance Commission (later changed to the House Democracy Partnership, hereafter referred to as "HDP") to work directly with parliaments around the world to support the development of effective, independent, and responsive legislative institutions.

(2) HDP approved a legislative strengthening partnership with Burma in 2016 and organized the first congressional delegation to meet with the new civilian-led government, led by State Counselor Aung San Suu Kyi, and civil society leaders in May 2016.

(3) On February 2, 2021, the U.S. Department of State assessed that Daw Aung San Suu Kyi, the leader of Burma's ruling party, and President Win Myint, the duly elected head of government, were deposed in a military coup on February 1, 2021.

(4) As part of the military coup, the Burmese military declared martial law, suspended the civilian-led government, and detained newly elected Members of Parliament